

# भारत का राजपत्र The Gazette of India

प्राधिकार से प्रकाशित  
PUBLISHED BY AUTHORITY

नं. 16]

नई दिल्ली, शनिवार, अप्रैल 21, 2001/वैशाख 1, 1923

No. 16]

NEW DELHI, SATURDAY, APRIL 21, 2001/VAISAKHA 01, 1923

इस भाग में निम्न षष्ठ संख्या दी जाती है जिससे कि यह घसग संकलन के रूप में  
रखा जा सके

Separate Paging is given to this Part in order that it may be filed as a  
separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)

PART II—Section 3—Sub-Section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं  
Statutory Orders and Notifications Issued by the Ministries of the Government of India  
(Other than the Ministry of Defence)

कामिक लोक शिकायत तथा पेशन मंत्रालय

(कामिक और प्रशिक्षण विभाग)

नई दिल्ली, 3 अप्रैल, 2001

कां. 787—केन्द्रीय सरकार, दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम स. 25) की धारा 6 के साथ पठित धारा 5 की उप धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उत्तर प्रदेश सरकार द्वारा दिनांक 21-12-2000 की गृह (पुलिस) खण्ड II अधि-सूचना स. 4718/6-11-2000-5 14-एम/2000, लखनऊ द्वारा दी गई सहमति में, उत्तर प्रदेश राज्य के निम्नलिखित पुलिस स्टेशनों में दायर प्रत्येक मामले के मामले उल्लिखित निम्नलिखित अपराधों अथवा उनके संस्कृत प्रयत्नों दुप्रेरणों और पड़यंत्र और उसी मन्व्यवहार के क्रम में अथवा उन्हीं तथ्यों में उदमन किन्ती अन्य अपराध (अपराधों) का अन्वेषण

करने के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और अधिकारिता का विस्तार संपूर्ण उत्तर प्रदेश राज्य के संबंध में करती है :

क्र.सं.	पुलिस स्टेशन का नाम	अपराध मामला धारा के अधीन	संख्या
1	2	3	4
1	शिवपुरी, वाराणसी	84/2000	अनेतिक व्यापार (निवारण) अधिनियम, 1956 की धारा 3/4/5/8/9/15 भारतीय दण्ड संहिता, 1860 की धारा 323/504/506/201 भारतीय दण्ड संहिता, 1860 की धारा 302/201
2	शिवपुरी, वाराणसी	86/2000	
3	शिवपुरी, वाराणसी	90/2000	

1	2	3	4
4	रामनगर, वाराणसी	126/2000 भारतीय दंड संहिता, 1860 की धारा 302/201	
[सं. 228/4/2001-ए. वी. डी. (II)]			
हरि सिंह, अवर सचिव			

## MINISTRY OF PERSONNEL, PUBLIC

## GRIEVANCES AND PENSION

(Department of Personnel &amp; Training)

New Delhi, the 3rd April, 2001

S.O. 787.—In exercise of the powers conferred by sub-section (1) of section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (Act. No. 25 of 1946), the Central Government with the consent of the State Government of Uttar Pradesh vide Home (Police) Section-II Notification No. 4718/6-11-2000-514M/2000 Lucknow dated 21-12-2000, hereby extends the powers and jurisdiction of the members of Delhi Special Police Establishment to the whole of the State of Uttar Pradesh for investigation of the following offences mentioned against each case and any other offence(s), attempts, abetments and conspiracy in relation to or in connection with the said offences committed in the course of the same transaction arising out of the same facts or fact in relation to the cases registered at following police station of the State of Uttar Pradesh.

S. No.	Name of Police Station	Case Crim No.	Under Section
(i)	Shivpuri, Varanasi	84/2000	3/4/5/8/9/15 Immoral Traffic (Prevention) Act, 1956
(ii)	Shivpuri, Varanasi	86/2000	323/504/506/201 of the Indian Penal Code, 1860
(iii)	Shivpuri, Varanasi	90/2000	302, 201 of the Indian Penal Code, 1860.
(iv)	Ram Nagar, Varanasi	126/2000	302/201 of the Indian Penal Code, 1860.

[No. 228/4/2001-AVD.(I)]  
HARI SINGH, Under Secy.

नई दिल्ली, 4 अप्रैल, 2001

का. आ. 788.—केन्द्र सरकार, एतद्वारा दण्ड प्रक्रिया संहिता, 1973 (1974 का अधिनियम संख्या 2) की धारा 24 की उपधारा 8 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए श्री एस. के. गर्मा विधिक सलाहकार केन्द्रीय अन्वेषण ब्यूरो को विचारण न्यायालयों में दिल्ली विशेष पुलिस स्थापना द्वारा

संस्थित मामलों और राय अथवा संघ राज्य क्षेत्र जिले पर उपयुक्त धारा के उपबन्ध लागू होते हैं, में विधि द्वारा स्थापित पुनरीक्षण अथवा न्यायालयों में इन मामलों में उद्भूत अपीलें, पुनरीक्षण अथवा अन्य विषयों का संचालन करने के लिए विशेष लोक अभियोजक नियुक्त करती है।

[सं. 228/1/2000-ए. वी. डी. (II)]

हरि सिंह, अवर सचिव

New Delhi, the 4th April, 2001

S.O. 788.—In exercise of the powers conferred by sub-section (8) of Section 24 of the Criminal Procedure, 1973 (Act No. 2 of 1974), the Central Government hereby appoints Sh. S. K. Sharma, Legal Adviser, Central Bureau of Investigation as Special Public Prosecutor for conducting of cases instituted by Delhi Special Police Establishment in the trial courts and appeals, revisions or other matters arising out of these cases in revisional or appellate courts established by Law in any State or Union Territory to which the provision of the aforesaid section apply.

[No. 225/1/2000-AVD. II]  
HARI SINGH, Under Secy.

नई दिल्ली, 4 अप्रैल, 2001

का. आ. 789.—केन्द्रीय सरकार, एतद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम सं. 25) की धारा 6 के साथ पठित धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, झारखण्ड राज्य सरकार के गृह विभाग की दिनांक 24-2-2001 की अधिसूचना सं. 11 विधि 101/2000-एच. डी. 143, द्वारा दी गई सहमति में, पुलिस स्टेशन हटिया रांची में [दरजे] दिनांक 20-10-1998 का मामला प्रथम सूचना रिपोर्ट संख्या 111/98 में भारतीय दण्ड संहिता, 1860 की धारा 302, 201 तथा 34 के तहत किए गए दण्डनीय अपराधों के अन्वेषण और उपयुक्त अपराध अथवा अपराधों के बारे में अथवा उससे संबंधित प्रयत्न, दुष्प्रेरण, तथा पड़ोस तथा वैसे ही संयवहार के अनुक्रम में किए गए अथवा उन्ही तथ्यों में उद्भूत किसी अन्य अपराधों का अन्वेषण करने के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों तथा अधिकारिता का विस्तार सम्पूर्ण झारखण्ड राज्य के संघ में करती है।

[सं. 228/52/2000-ए. वी. डी. (II)]

हरि सिंह, अवर सचिव

New Delhi, the 4th April, 2001

S.O. 789.—In exercise of the powers conferred by sub-section (1) of section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (Act. No. 25 of 1946), the Central Government with the consent of the State Government of Jharkhand vide Home Department Notification No. 11/Vividh-101/2000-HD 143 dated 24-2-2001 hereby ex-

extends the powers and jurisdiction of the members of Delhi Special Police Establishment to the whole of the State of Jharkhand for investigation of offences punishable under sections 302, 201 and 34 of the Indian Penal Code, 1860 and attempts, abetments and conspiracy in relation to or in connection with one or more of the offence mentioned above and other offence or offences committed in the course of the same transaction or arising out of the same facts, registered as Case FIR No. 111/98 dated 20-10-1998 at Police Station Hitia, Ranchi.

[No. 228/52/2000-AVD.II]  
HARI SINGH, Under Secy.

नई दिल्ली, 4 अप्रैल 2001

का. आ. 790 :—केन्द्रीय सरकार एतद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम सं. 25) की धारा 6 के साथ पठित धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करने हुए झारखंड राज्य सरकार के गृह विभाग की अधिसूचना सं. 12-6-2000-एच/2/रांची दिनांक 01-01-2001 द्वारा प्राप्त झारखंड राज्य सरकार की सहमति से निम्नलिखित :-

(क) भारत सरकार, स्थानीय प्राधिकरण के कार्यों के संबंध में भारत सरकार अथवा भारत सरकार के स्वामित्व वाले अथवा उसके द्वारा नियंत्रित किसी निगम, कंपनी अथवा बैंक के नियंत्रणाधीन किए गए अपराध ।

(i) भ्रष्टाचार निवारण अधिनियम 1947 (1947 का अधिनियम सं. 2) और भ्रष्टाचार निवारण अधिनियम 1988 के अधीन दंडनीय अपराध ।

(ii) भारतीय दंड संहिता 1860 (1860 का अधिनियम सं. 45) की धारा 403, 406, 407, 408, 409, 411, 412, 413, 414, , 417, 418, 419, 420, 465, 466, 467, 468, 471, और 477-ए के अधीन दंडनीय अपराध और

(iii) निम्नलिखित केन्द्रीय अधिनियमों के अधीन दंडनीय अपराध

1 पासपोर्ट (भारत में प्रवेश) अधिनियम 1920 (1920 का अधिनियम सं. 24)

2. विदेशियों विषयक अधिनियम 1946, (1946 का अधिनियम सं. 31)

3. अक्रिम अधिनियम, 1878 (1878 का अधिनियम सं. 1)

4. भारतीय तार अधिनियम, 1885 (1885 का अधिनियम सं. 13)

5 भारतीय डाकघर अधिनियम 1898 (1898 का अधिनियम सं. 6)

6. आगसी गृह बाल अधिनियम, 1923 (1923 का अधिनियम सं. 19)

7. खतरनाक सांके द्रव्य अधिनियम, 1930 (1930 का अधिनियम सं. 2)

8. भारतीय बेतार तार यांत्रिकी अधिनियम, 1933 (1933 का अधिनियम सं. 17)

9 वायुयान अधिनियम, 1934 (1934 का अधिनियम सं. 22)

10. बीमा अधिनियम, 1938 (1938 का अधिनियम सं. 4)

11. विदेशियों का रजिस्ट्रीकरण अधिनियम, 1939 (1939 का अधिनियम सं. 16)

12. केन्द्रीय उत्पाद शुल्क तथा वनक अधिनियम, 1944 (1944 का अधिनियम सं. 1)

13. आयात और निर्यात (नियंत्रण) अधिनियम, 1947 (1947 का अधिनियम सं. 18)

14. तारयंत्र संबंधी तार (विधिविरुद्ध कब्जा) अधिनियम, 1950 (1950 का अधिनियम सं. 74)

15. उद्योग (विकास और विनियमन) अधिनियम, 1955 (1955 का अधिनियम सं. 65)

16. रेल भंडारण (विधिविरुद्ध कब्जा) अधिनियम, 1955 (1955 का अधिनियम सं. 51)

17. कपती अधिनियम, 1956 (1956 का अधिनियम सं. 1)

18. सीमा शुल्क अधिनियम, 1962 (1962 का 52)

19. पासपोर्ट अधिनियम, 1967 (1967 का अधिनियम सं. 55)

20. विंशी मुद्रा विनियमन अधिनियम, 1973 (1973 का अधिनियम सं. 46)

(iv) उपर्युक्त अपराधों के संबंधित अथवा संलग्न प्रयत्न, दुष्करण और पछांतर तथा बैंक ही संबंधितों के अनुक्रम में किए गए उन्ही लोगों ने उद्भूत कोई अन्य अपराध के प्रवेण के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्ति और अधिकारिता का विस्तार संपूर्ण झारखंड राज्य पर करनी है ।

परन्तु यह सब जबकि जहां उक्त संबंधित अपराधों में झारखंड राज्य सरकार अथवा झारखंड सरकार के स्वामित्व वाले अथवा उससे द्वारा नियंत्रित किसी निगम, कंपनी अथवा बैंक अथवा झारखंड सरकार के वितीय सहायता प्राप्त कर रहे अथवा प्राप्त कर चुकी किसी संस्था के नियंत्रणाधीन झारखंड सरकार के कार्यों के संबंध में नियुक्त लोक सेवकों और किसी स्थानीय प्राधिकरण के कार्यों के संबंध में नियुक्त कारिगारों का संबंध है, दिल्ली विशेष

पुलिस स्थापना द्वारा ऐसे किसी अपराधो के अन्वेषण के लिए राज्य सरकार की अनुमति प्राप्त की जाएगी।

[स. 228/61/2001-एवीडी-II]

हरि सिंह, अवर सचिव

New Delhi, the 4th April, 2001

S.O. 790.—In exercise of the powers conferred by sub-section (1) of section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government with the consent of the State Government of Jharkhand vide Home Department Notification No. 12-6-2000-H/2/Ranchi dated 1st January, 2001, hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of Jharkhand for investigation of the following :—

(a) Offences committed in connection with the affairs of the Government of India, local authority, subject to the control of the Government of India or any Corporation, Company or Bank owned or controlled by the Government of India :—

(i) Punishable under the Prevention of Corruption Act, 1947 (Act No. 2 of 1947) and also under Prevention of Corruption Act, 1988.

(ii) Punishable under sections 403, 406, 407, 408, 409, 411, 412, 413, 414, 417, 418, 419, 420, 465, 466, 467, 468, 471 and 477-A of the Indian Penal Code, 1860 (Act No. 45 of 1860) and

(iii) Offences punishable under the following Central Acts,

1. Indian Passport Act (Entry into India) 1920 (Central Act 24 of 1920).

2. Foreigners Act, 1946 (Act No. 31 of 1946).

3. Opium Act, 1878 (Act No. 1 of 1878).

4. Indian Telegraph Act, 1885 (Act No. 13 of 1885).

5. Post Office Act, 1898 (Act No. 6 of 1898).

6. Official Secrets Act, 1923 (Act No. 19 of 1923).

7. Dangerous Drugs Act, 1930 (Act No. 2 of 1930).

8. Indian Wireless Telegraphy Act, 1933 (Act No. 17 of 1933).

9. Aircraft Act, 1934 (Act No. 22 of 1934).

10. Insurance Act, 1938 (Act No. 4 of 1938).

11. Registration of Foreigners Act, 1939 (Act No. 16 of 1939).

12. Central Excises and Salt Act, 1944 (Act No. 1 of 1944).

13. Imports and Exports Act, 1947 (Act No. 18 of 1947).

14. Telegraph Wires (Unlawful Possession) Act, 1950 (Act No. 74 of 1950).

15. Industries (Development & Regulation) Act, 1955 (Act No. 51 of 1955).

16. Railway Stores (Unlawful Possession) Act, (Act No. 51 of 1955).

17. Companies Act, 1956 (Act No. 1 of 1956).

18. Customs Act, 1962 (Act No. 52 of 1962).

19. Passport Act, 1967 (Act No. 55 of 1967).

20. The Foreign Exchange Regulations Act, 1973 (Act No. 46 of 1973).

(iv) Attempts, abetments and conspiracies in relation to or in connection with the offences mentioned above and any other offence committed in the course of the same transaction arising out of the same facts.

Provided that where public servants employed in connection with the affairs of the Government of Jharkhand and persons employed in connection with the affairs of any local authority subject to control of the Government of Jharkhand or any Corporation Company or Bank owned or controlled by the Government of Jharkhand or any institution receiving or having received any financial aid from the Government of Jharkhand are concerned, in offences referred to above, the prior consent of the State Government shall be obtained for the investigation of any such offences by the Delhi Special Police Establishment.

[No. 228/61/2001-AVD-II]

HARI SINGH, Under Secy.

वित्त मंत्रालय

(राजस्व विभाग)

आदेश

नई दिल्ली, 9 अप्रैल, 2001

का.आ.791:—अतः संयुक्त सचिव, भारत सरकार जिन्हें विदेशी मुद्रा संरक्षण और तस्करी निवारण अधिनियम, 1974 (1974 का 52) की धारा 3 की उपधारा (i) के अन्तर्गत विशेष रूप से शक्ति प्रदान की गई है, ने उक्त उप-धारा के अधीन आदेश फाइल सं. 673/64/2000-सी.यू.एस.-VIII, दिनांक 14-11-2000 को जारी किया और यह निर्देश दिया कि श्री मुरारी लाल गुप्ता, सुपुत्र श्री रामसेवक गुप्ता, पता : 53, आदित्या नगर, इंदौर, को निरुद्ध कर लिया जाए और केन्द्रीय कारागार इंदौर में अभिरक्षा में रखा जाए जिसमें कि उन्हें भविष्य में तस्करी करने में रोका जा सके।

2. अतः केन्द्रीय सरकार के पास यह विश्वास करने का कारण है कि पूर्वोक्त व्यक्ति फरार हो गया है या स्वयं को छिपा रखा है जिसे यह आदेश निषाधित नहीं किया जा सकता।



अतः अब उक्त अधिनियम की धारा 7 की उप-धारा (i) के खंड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करने हुए केन्द्रीय सरकार एतद्वारा पूर्वोक्त व्यक्ति को यह निर्देश देती है कि वह शासकीय राजपत्र में इस आदेश के प्रकाशित होने के 7 दिन के भीतर इन्स्पेक्टर जनरल पुलिस, इंदौर के सम्मुख उपस्थित हो।

[फा. सं. 673/64/2000-सी-यू-एस-VIII]

विजय के. शर्मा, उप सचिव

## MINISTRY OF FINANCE

(Department of Revenue)

### ORDER

New Delhi, the 9th April, 2001

S.O. 191.—Whereas the Joint Secretary to the Government of India, specially empowered under Sub-section (1) of Section 3 of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (52 of 1974) issued order F. No. 673/64/2000-Cus. VIII, dated 14-11-2000 under the said Sub-section directing that Shri Murarilal Gupta, S/o Shri Ramsevak Gupta, R/o 53, Aditya Nagar, Indore, be detailed and kept in custody in the Central Jail, Indore, with a view to preventing him from smuggling goods in future.

2. Whereas the Central Government has reasons to believe that the aforesaid person has absconded or is concealing himself so that the order cannot be executed.

3. Now, therefore, in exercise of the powers conferred by Clause (b) of Sub-section (1) of Section 7 of the said Act, the Central Government hereby directs the aforesaid person to appear before the Inspector General of Police, Indore within 7 days of the publication of this order in the Official Gazette.

[F. No. 673/64/2000-Cus. VIII]

VIJAY K. SHARMA, Dy. Secy.

आदेश

नई दिल्ली, 9 अप्रैल, 2001

का.आ. 792:—अतः संयुक्त सचिव, भारत सरकार, जिन्हें विदेशी मुद्रा संरक्षण और तस्करी निवारण अधिनियम, 1974 (1974 का 52) की धारा 3 की उपधारा (i) के अन्तर्गत विशेष रूप से शक्ति प्रदान की गई है, ने उक्त उप-धारा के अधीन आदेश फाइल सं. 673/67/2000-सी-यू-एस-VIII, दिनांक 14-11-2000 को जारी किया और यह निर्देश दिया कि श्री हरबंस सिंह सुपुत्र श्री हरभजन सिंह, पता: 41/30 ब्रह्मपुरी कालोनी, इंदौर, को निरुद्ध कर लिया जाए और केन्द्रीय कारागार, इंदौर में अभिरक्षा में रखा जाए जिससे कि उन्हें तस्करी को

बढ़ावा देने तथा तस्करी किए गए माल को खाने ले जाने में लिप्त रहने से रोक जा सके।

2. अतः केन्द्रीय सरकार के पास यह विश्वास करने का कारण कि पूर्वोक्त व्यक्ति फरार हो गया है या स्वयं को छिपा रखा है जिससे यह आदेश निष्पादित नहीं किया जा सकता।

3. अतः अब उक्त अधिनियम की धारा 7 की उप-धारा (i) के खंड (ख) द्वारा प्रदत्त शक्ति का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा पूर्वोक्त व्यक्ति को यह निर्देश देती है कि वह शासकीय राजपत्र में इस आदेश के प्रकाशित होने के 7 दिन के भीतर इन्स्पेक्टर जनरल पुलिस इंदौर के सम्मुख उपस्थित हो।

[फा. सं. 673/67/2000-सी-यू-एस-VIII]

विजय के. शर्मा, उप सचिव

### ORDER

New Delhi, the 9th April, 2001

S.O. 792.—Whereas the Joint Secretary to the Government of India, specially empowered under Sub-section (1) of Section 3 of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (52 of 1974) issued order F. No. 673/67/2000-Cus. VIII, dated 14-11-2000 under the said Sub-section directing that Shri Harbans Singh S/o Shri Harbhajan Singh, R/o 41/30, Bramhapuri Colony, Indore be detained and kept in custody in the Central Jail, Indore with a view to preventing him from abetting the smuggling of goods and engaging in transporting smuggled goods in future.

2. Whereas the Central Government has reasons to believe that the aforesaid person has absconded or is concealing himself so that the order cannot be executed.

3. Now, therefore, in exercise of the powers conferred by Clause (b) of Sub-section (1) of Section 7 of the said Act, the Central Government hereby directs the aforesaid person to appear before the Inspector General of Police, Indore within 7 days of the publication of this order in the Official Gazette.

[F. No. 673/67/2000-Cus. VIII]

VIJAY K. SHARMA, Dy. Secy.

आदेश

नई दिल्ली, 9 अप्रैल, 2001

का.आ. 793:—जबकि, विदेशी मुद्रा संरक्षण और तस्करी निवारण अधिनियम, 1974 (1974 का 52) की धारा 3 की उपधारा (1) के अधीन विशिष्ट रूप से अधिकार प्राप्त भारत सरकार के संयुक्त सचिव ने कथित उपधारा के अन्तर्गत दिनांक 30-01-2001 को जारी आदेश संख्या 673/77/2000-सी.शु.-VIII द्वारा निवेश किया था कि श्री किशन गोपाल, सुपुत्र श्री भगवान शरण, पता (i)

प्रोप्राइटर मै. कुलदीप डाई कटर्स एण्ड ज्वेलर्स, 3728, गली बर्ना, बाराटूटी, सदर बाजार दिल्ली-110006(ii) आवासीय पता : 331/18-बी राजगढ़ कालोनी, गली न. 4, गांधी नगर, दिल्ली को नजरबंद किया जाए और उन्हें केन्द्रीय कारागार तिहाड़, नई दिल्ली, में अभिरक्षा में रखा जाए ताकि भविष्य में उन्हें तस्करी के माल को छुपाने अथवा रखने में सक्षम होने और तस्करी के माल को लाने ले जाने अथवा छुपाने अथवा रखने में सक्षम होने के अतिरिक्त अन्यथा तस्करी के माल का व्यापार करने से रोका जा सके।

2. जबकि केन्द्रीय सरकार के विश्वास करने के लिए यह कारण है कि उपर्युक्त व्यक्ति फरार है अथवा अपने आपको छिपाए हुए है ताकि आदेश निष्पादित न किए जा सकें।

3. अतः, अब कथित अधिनियम की धारा 7 की उप-धारा (I) के खंड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा उपर्युक्त व्यक्ति को इस आदेश के सरकारी राजपत्र में प्रकाशन की तारीख से सात दिन के अन्दर पुलिस आयुक्त, दिल्ली के समक्ष उपस्थित होने का निदेश देती है।

[फा. सं. 673/77/2000-सी.शु.-VIII]

विजय के. शर्मा, उप सचिव

## ORDER

New Delhi, the 9th April, 2001

S.O. 793.—Whereas the Joint Secretary to the Government of India, specially empowered under Sub-section (1) of Section 3 of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (52 of 1974) issued order F. No. 673/77/2000-Cus. VIII, dated 30-1-2001 under the said Sub-section directing that Shri Kishan Gopal S/o Shri Bhagwan Sharan, Address: (1) Proprietor M/s. Kuldeep Die Cutters & Jewelers, 3728, Gali Barna, Baratooti, Sadar Bazar, Delhi-110006 (2) Residential Address: 331/18B, Rajgarh Colony, Gali No. 4, Gandhi Nagar, Delhi be detained and kept in custody in the Central Jail, Tihar, New Delhi with a view to preventing him from engaging in concealing or keeping smuggled goods as well as from dealing in smuggled goods otherwise than by engaging in transporting or concealing or keeping smuggled goods in future.

2. Whereas the Central Government has reasons to believe that the aforesaid person has absconded or is concealing himself so that the order cannot be executed.

3. Now, therefore, in exercise of the powers conferred by Clause (b) of Sub-section (1) of Section 7 of the said Act, the Central Government hereby directs the aforesaid person to appear before the Commissioner of Police, Delhi within 7

days of the publication of this order in the Official Gazette.

[F. No. 673/77/2000-Cus. VIII]

VIJAY K. SHARMA, Dy. Secy.

आदेश

नई दिल्ली, 9 अप्रैल, 2001

का.आ. 794—जबकि, विदेशी मुद्रा संरक्षण और तस्करी निवारण अधिनियम, 1974 (1974 का 52) की धारा 3 की उपधारा (1) के अधीन परिशिष्ट रूप में अधिकार प्राप्त भारत सरकार के संयुक्त सचिव ने कथित उपधारा के अन्तर्गत दिनांक 16-02-2001 को जारी आदेश संख्या 673/79/2000-सी. शु. ०-VIII निदेश किया था कि श्री अश्विनी कुमार जैन, सुपुत्र श्री एस. सी. जैन, निवासी किशन फ्लोर मिल रेलवे रोड, मेरठ को नजरबंद किया जाए और उन्हें केन्द्रीय कारागार मेरठ में अभिरक्षा में रखा जाए ताकि भविष्य में उन्हें माल की तस्करी करने से रोका जा सके।

2. जब कि केन्द्रीय सरकार के पास विश्वास करने का यह कारण है कि उपर्युक्त व्यक्ति फरार है अथवा अपने आपको छिपाए हुए है ताकि आदेश निष्पादित न किया जा सके।

3. अतः अब, कथित अधिनियम की धारा 7 की उपधारा (1) के खंड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा उपर्युक्त व्यक्ति को इस आदेश के सरकारी राजपत्र में प्रकाशन की तारीख से सात दिन के अन्दर सहानिरीक्षक पुलिस, मेरठ के समक्ष उपस्थित होने का निदेश देती है।

[फा. सं. 673/79/2000-सी.शु.-VIII]

एस. सी. गुलटी, अवर सचिव

## ORDER

New Delhi, the 9th April, 2001

S.O. 794.—Whereas the Joint Secretary to the Government of India, specially empowered under Sub-section (1) of Section 3 of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (52 of 1974) issued order F. No. 673/79/2000-Cus. VIII, dated 16-2-2001 under the said Sub-section directing that Shri Ashwani Kumar Jain S/o Shri S. C. Jain. R/o Kishan Flour Mill, Railway Road, Meerut be detained and kept in custody in the Central Jail, Meerut with a view to preventing him from smuggling of goods in future.

2. Whereas the Central Government has reasons to believe that the aforesaid person has absconded or is concealing himself so that the order cannot be executed.

3. Now, therefore, in exercise of the powers conferred by Clause (b) of Sub-section (1) of Section 7 of the said Act, the Central Government

hereby directs the aforesaid person to appear before the Inspector General of Police, Meerut within 7 days of the publication of this order in the Official Gazette.

[F. No. 673/79/2000-Cus. VIII]

S.C. GULATI Under Secy.

आदेश

नई दिल्ली, 9 अप्रैल, 2001

का आ 795—जबकि विदेशी मुद्रा संरक्षण और तस्करी निवारण अधिनियम, 1974 (1974 का 52) की धारा 3 की उपधारा (1) के अधीन विशिष्ट रूप में अधिकार प्राप्त भारत सरकार के संयुक्त सचिव ने कथित उपधारा के अन्तर्गत दिनांक 16-2-2001 को जारी आदेश संख्या 673/80/2000-सी शु.-VIII द्वारा निदेश दिया था कि श्री बलवीर सिंह मेठी, सुपुत्र स्वर्गीय श्री सोहन सिंह मेठी, निवासी 82/1, एम रेलवे रोड, मेरठ को नजरबन्द किया जाए और उन्हें केन्द्रीय कारागार, मेरठ में अभिरक्षा में रखा जाए ताकि भविष्य में उन्हें माल की तस्करी तथा तस्करी के माल को रखने में सन्निप्त होने में प्रवर्तित होने में रोका जा सके।

2 जबकि केन्द्रीय सरकार के पास विश्वास करने का कारण है कि उपर्युक्त व्यक्ति फरार है अथवा अपने आपको छिपाए हुए है ताकि आदेश निष्पादित न किए जा सकें।

3 अतः अब, कथित अधिनियम की धारा 7 की उपधारा (1) के खण्ड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा उपर्युक्त व्यक्ति को इस आदेश के सरकारी राजपत्र में प्रकाशन की तारीख से सात दिन के अन्दर महानिरीक्षक, पुलिस मेरठ के समक्ष उपस्थित होने का निदेश देती है।

[फा सं. 673/80/2000-सी. शु.-VIII]

एस सी गुलाटी, अवसर सचिव

## ORDER

New Delhi, the 9th April, 2001

S.O. 795.—Whereas the Joint Secretary to the Government of India, specially empowered under Sub-section (1) of Section 3 of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (52 of 1974) issued order F. No. 673/80/2000-Cus. VIII, dated 16-2-2001 under the said Sub-section directing that Shri Balbir Singh Sethi, S/o late Shri Sohan Singh Sethi, R/o 82/1, M. Railway Road, Meerut be detained and kept in custody in the Central Jail, Meerut with a view to preventing him from abetting the smuggling of goods as well as engaging in keeping smuggled goods in future.

2. Whereas the Central Government has reasons to believe that the aforesaid person has absconded

or is concealing himself so that the order cannot be executed.

3 Now, therefore, in exercise of the powers conferred by Clause (b) of Sub-section (1) of Section 7 of the said Act, the Central Government hereby directs the aforesaid person to appear before the Inspector General of Police, Meerut within 7 days of the publication of this order in the Official Gazette.

[F. No. 673/80/2000-Cus. VIII]

S.C. GULATI Under Secy.

आदेश

नई दिल्ली, 9 अप्रैल, 2001

का आ 796—जबकि विदेशी मुद्रा संरक्षण और तस्करी निवारण अधिनियम, 1974 (1974 का 52) की धारा 3 की उपधारा (1) के अधीन विशिष्ट रूप में अधिकार प्राप्त भारत सरकार के संयुक्त सचिव ने कथित उपधारा के अन्तर्गत दिनांक 16-02-2001 को जारी आदेश संख्या 673/81/2000-सी शु.-VIII द्वारा निदेश दिया था कि श्री पवन कुमार गुप्ता, सुपुत्र श्री के.एस. गुप्ता, निवासी डी 06/15, भूतन राणा प्रताप बाग, दिल्ली को नजरबन्द किया जाए और उन्हें केन्द्रीय कारागार निहाड, नई दिल्ली में अभिरक्षा में रखा जाए ताकि भविष्य में उन्हें तस्करी के माल को लाने ले जाने अथवा छुपाने अथवा रखने में सन्निप्त होने के अतिरिक्त अन्यथा तस्करी के माल का व्यापार करने में रोका जा सके।

2 जबकि केन्द्रीय सरकार के पास विश्वास का कारण है कि उपर्युक्त व्यक्ति फरार है अथवा अपने आपको छिपाए हुए है ताकि आदेश निष्पादित न किए जा सकें।

3 अतः अब, कथित अधिनियम की धारा 7 की उपधारा (1) के खण्ड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा उपर्युक्त व्यक्ति को इस आदेश के सरकारी राजपत्र में प्रकाशन की तारीख से सात दिन के अन्दर पुलिस आयुक्त दिल्ली के समक्ष उपस्थित होने का निदेश देती है।

[फा सं. 673/81/2000-सी शु. VIII]

एस सी गुलाटी, अवसर सचिव

## ORDER

New Delhi, the 9th April, 2001

S.O. 796.—Whereas the Joint Secretary to the Government of India, specially empowered under Sub-section (1) of Section 3 of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (52 of 1974) issued order F. No. 673/81/2000-Cus. VIII, dated 16-2-2001 under the said Sub-section directing that Shri Pawan Kumar Gupta, S/o Shri K. S. Gupta, R/o D-6/15, Ground Floor, R. P. Bagh, Delhi be detained and kept in custody in the Central Jail,

Tihar, New Delhi with a view to preventing him from dealing in smuggled goods otherwise than by engaging in transporting or concealing or keeping smuggled goods in future.

2. Whereas the Central Government has reasons to believe that the aforesaid person has absconded or is concealing himself so that the order cannot be executed.

3. Now, therefore, in exercise of the powers conferred by Clause (b) of Sub-section (1) of Section 7 of the said Act, the Central Government hereby directs the aforesaid person to appear before the Commissioner of Police, Delhi within 7 days of the publication of this order in the Official Gazette.

[F. No. 673/81/2000-Cus. VIII]

S. C. GULATI, Under Secy.

आदेश

नई दिल्ली, 9 अप्रैल, 2001

का.आ. 797—जबकि, विदेशी मुद्रा संरक्षण और तस्करी निवारण अधिनियम, 1974 (1974 का 52) की धारा 3 की उपधारा (1) के अधीन विनिष्ट रूप से अधिकार प्राप्त भारत सरकार के संयुक्त सचिव ने कथित उपधारा के अन्तर्गत दिनांक 16.2.2001 को जारी आदेश संख्या 673/82/2000-सी. शु. VIII द्वारा निदेश किया था कि श्री त्रिलोकनाथ मित्तल, सुपुत्र श्री परसराम मित्तल, निवासी बी-76, सी. सी. कालोनी राणा प्रताप बाग के सामने दिल्ली को नजरबन्द किया जाए और उन्हें केन्द्रीय कारागार तिहाड़, नई दिल्ली में अभिरक्षा में रखा जाए ताकि भविष्य में उन्हें तस्करी के माल को लाने ले जाने अथवा छुपाने अथवा रखने में संलिप्त होने के अतिरिक्त माल की तस्करी तथा तस्करी के माल के व्यापार में अवरोधित होने से रोका जा सके।

4. जबकि केन्द्रीय सरकार के पास विश्वास करने का कारण है कि उपयुक्त व्यक्ति फरार है अथवा अपने आपको छिपाए हुए है ताकि आदेश निष्पादित न किए जा सके।

3. अतः अब, कथित अधिनियम की धारा 7 की उपधारा (1) के खण्ड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा उपयुक्त व्यक्ति को इस आदेश के सरकारी राजपत्र में प्रकाशन की तारीख से सात दिन के अन्दर पुलिस आगुस्त दिल्ली के समक्ष उपस्थित होने का निदेश देती है।

[फा. सं. 673/82/2000-सी. शु. VIII]

एस. सी. गुलाटी, अवसर सचिव

ORDER

New Delhi, the 9th April, 2001

S.O. 797.—Whereas the Joint Secretary to the Government of India, specially empowered under

Sub-section (1) of Section 3 of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (52 of 1974) issued order F. No. 673/82/2000-Cus. VIII, dated 16-2-2001 under the said Sub-section directing that Shri Trilok Nath Mittal, S/o Shri Paras Ram Mittal, R/o B-76, C. C. Colony, Opp. R. P. Bagh, Delhi be detained and kept in custody in the Central Jail, Tihar, New Delhi with a view to preventing him from abetting the smuggling of goods and dealing in smuggled goods otherwise than by engaging in transporting or concealing or keeping smuggled goods in future.

2. Whereas the Central Government has reasons to believe that the aforesaid person has absconded or is concealing himself so that the order cannot be executed.

3. Now, therefore, in exercise of the powers conferred by Clause (b) of Sub-section (1) of Section 7 of the said Act, the Central Government hereby directs the aforesaid person to appear before the Commissioner of Police, Delhi within 7 days of the publication of this order in the Official Gazette.

[F. No. 673/82/2000-Cus. VIII]

S. C. GULATI, Under Secy.

आदेश

नई दिल्ली, 9 अप्रैल, 2001

का.आ. 798—जबकि विदेशी मुद्रा संरक्षण और तस्करी निवारण अधिनियम, 1974 (1974 का 52) की धारा 3 की उपधारा (1) के अधीन विनिष्ट रूप से अधिकार प्राप्त भारत सरकार के संयुक्त सचिव ने कथित उपधारा के अन्तर्गत दिनांक 14.2.2001 को जारी आदेश संख्या 673/1/2001 सी. शु. -VIII द्वारा निदेश किया था कि राकेश सरा, उर्फ बबलू सुपुत्र श्री सुभाष चन्द सरा, पता (1) निवासी ए 3/163, पश्चिम बिहार, नई दिल्ली, (2) व्यवसाय परिसर सै. सरा मनी चेजर प्रा. लि., 19, द्वितीय तल पुराना राजेन्द्र नगर, नई दिल्ली, को नजरबन्द किया जाए और उन्हें केन्द्रीय कारागार, तिहाड़ नई दिल्ली, में अभिरक्षा में रखा जाए ताकि भविष्य में उन्हें विदेशी मुद्रा के संवर्धन के लिए हानिकारक किसी भी कार्य में संलिप्त होने से रोका जा सके।

2 जबकि केन्द्रीय सरकार के विश्वास करने के लिए यह कारण है कि उपयुक्त व्यक्ति फरार है अथवा अपने आपको छिपाए हुए है ताकि आदेश निष्पादित न किए जा सके।

3. अतः अब, कथित अधिनियम की धारा 7 की उपधारा (1) के खण्ड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा उपयुक्त व्यक्ति को इस आदेश के सरकारी राजपत्र में प्रकाशन की तारीख से सात

विम के अन्तर पुलिस आयुक्त दिल्ली के समक्ष उपस्थित होने का निदेश देती है।

(आर्थिक कार्य विभाग)

(बैंकिंग प्रभाग)

[फा. सं. 673/1/2001-सी. गु. VIII]

एस. के. सिंह, अवर सचिव

नई दिल्ली, 21 मार्च, 2001

### ORDER

New Delhi, the 9th April, 2001

S.O. 798.—Whereas the Joint Secretary to the Government of India, specially empowered under Sub-section (1) of Section 3 of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (52 of 1974) issued order F. No. 673/1/2001-Cus. VIII, dated 14-2-2001 under the said Sub-section directing that Shri Rakesh Sapra @ Babloo, S/o Shri Subash Chand Sapra, Address: (1) R/o A-3/163, Pashchim Vihar, New Delhi, (2) Business Premises: M/s Sapra Money Changer Pvt. Ltd., 19, IInd Floor, Old Rajendra Nagar, New Delhi be detained and kept in custody in the Central Jail, Tihar, New Delhi with a view to preventing him from indulging in any activity prejudicial to augmentation of foreign exchange in future.

2. Whereas the Central Government has reasons to believe that the aforesaid person has absconded or is concealing himself so that the order cannot be executed.

3. Now, therefore, in exercise of the powers conferred by Clause (b) of Sub-section (1) of Section 7 of the said Act, the Central Government hereby directs the aforesaid person to appear before the Commissioner of Police, Delhi within 7 days of the publication of this order in the Official Gazette.

[F. No. 673/1/2001-Cus. VIII]

S. K. SINGH, Under Secy.

का. आ. 799.—राष्ट्रीय बैंक (प्रबंध एवं प्रकीर्ण उपबंध) स्कीम 1980 के खण्ड 3 के उप-खण्ड (1) के साथ पठित बैंककारी कंपनी (उपग्रहों का अर्जन एवं अंतरण) अधिनियम, 1980 की धारा 9 की उप-धारा 3 के खण्ड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा वित्त मंत्रालय, आर्थिक कार्य विभाग, नई दिल्ली में उप सचिव, श्री बी. पी. भारद्वाज को श्री बी. एस. मीणा के स्थान पर तत्काल प्रभाव से और आगामी आदेशों तक विजया बैंक के बोर्ड में निदेशक नामित करती है।

[सं. 9/8/2000-बी. ओ. I (ii)]

रमेश चन्द, अवर सचिव

(Department of Economic Affairs)

(Banking Division)

New Delhi, the 21st March, 2001

S.O. 799.—In exercise of the powers conferred by clause (b) of Sub-section (3) of Section 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980, read with sub-clause (1) of clause 3 of the Nationalised Banks (Management and Miscellaneous Provisions) Scheme, 1980, the Central Government, hereby nominates Shri V. P. Bhardwaj, Deputy Secretary, Ministry of Finance, Department of Economic Affairs, Banking Division, New Delhi as a Director on the Board of Vijaya Bank vice Shri B. S. Meena with immediate effect and until further orders.

[F. No. 9/8/2000-B.O. 1(ii)]

RAMESH CHAND, Under Secy.

नई दिल्ली, 3 अप्रैल, 2001

का.आ. 800.—राष्ट्रीय कृषि एवं ग्रामीण विकास बैंक अधिनियम, 1981 के खण्ड 6 के उपखण्ड (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा नीचे दी गई संपत्ति के कॉलम (1) में निर्दिष्ट व्यक्तियों को राष्ट्रीय कृषि एवं ग्रामीण विकास बैंक अधिनियम, 1981 के उपबंध के तहत राष्ट्रीय कृषि एवं ग्रामीण विकास बैंक के निदेशक मंडल में निदेशकों के रूप में नामित करती है, जैसा कि उनके नाम के सामने कॉलम (2) में दर्शाया गया है, 1 फरवरी, 2001 से अपने पद पर बने रहेंगे तथा उनके पद की अस्थायित्व अवधि या अगले आदेश के जारी होने तक के लिए, जैसा भी सामंजस्य हो, अधिनियम के उपबंध के तहत, जैसा कि उनके नाम के सामने कॉलम (3) में दर्शाया गया है, उनकी नियुक्ति सम्बद्ध पद पर हुई मानी जाएगी।

## सारणी

1	2	3
उप गवर्नर भारतीय रिजर्व बैंक केन्द्रीय कार्यालय मुम्बई ।	राष्ट्रीय कृषि एवं ग्रामीण विकास बैंक अधिनियम, 1981 का खण्ड 6(1) (घ)	राष्ट्रीय कृषि एवं ग्रामीण विकास बैंक अधिनियम, 2000 (2000 का 55) द्वारा यथा संशोधित राष्ट्रीय कृषि एवं ग्रामीण विकास बैंक अधिनियम 1981 का खण्ड 6(1) (ग)
श्री देवी दयाल विशेष सचिव (वैकिंग) वित्त मंत्रालय, आर्थिक कार्य विभाग, (वैकिंग प्रभाग) नई दिल्ली ।	राष्ट्रीय कृषि एवं ग्रामीण विकास बैंक अधिनियम, 1981 का खण्ड 6(1) (ङ)	राष्ट्रीय कृषि एवं ग्रामीण विकास बैंक अधिनियम, 2000 (2000 का 55) द्वारा यथा संशोधित राष्ट्रीय कृषि एवं ग्रामीण विकास बैंक अधिनियम, 1981 का खण्ड 6(1) (घ)
सचिव, (कृषि एवं सहकारिता) कृषि और सहकारिता मंत्रालय	—तदेव—	—तदेव—
सचिव, ग्रामीण विकास मंत्रालय	—तदेव—	—तदेव—
वित्त विकास आयुक्त एवं सचिव, पंजाब सरकार चंडीगढ़	राष्ट्रीय कृषि एवं ग्रामीण विकास बैंक अधिनियम 1981 का खण्ड 6(1) (घ)	राष्ट्रीय कृषि एवं ग्रामीण विकास बैंक अधिनियम 2000 (2000 का 55) द्वारा यथा संशोधित राष्ट्रीय कृषि एवं ग्रामीण विकास बैंक अधिनियम 1981 का खण्ड 6(1) (ङ)
धान सचिव, -।ष एवं सहकारिता विभाग, गुजरात सरकार, गांधी नगर	राष्ट्रीय कृषि एवं ग्रामीण विकास बैंक अधिनियम 1981 का खण्ड 6(1) (च)	राष्ट्रीय कृषि एवं ग्रामीण विकास बैंक अधिनियम, 2000 (2000 का 55) द्वारा यथा संशोधित राष्ट्रीय कृषि एवं ग्रामीण विकास बैंक अधिनियम 1981 का खण्ड 6(1) (ङ)

[सं. 7/14/97-बी.ओ.-I]

रमेश चन्द्र, अवसर सचिव

New Delhi, the 3rd April, 2001

S.O. 800.—In exercise of the powers conferred by Sub-section (1) of Section 6 of the National Bank for Agriculture and Rural Development Act, 1981, the Central Government, hereby directs that the persons specified in column (1) of the Table below nominated as Directors on the Board of Directors of the National Bank for Agriculture and Rural Development, under the provision of the National Bank for Agriculture and Rural Development Act, 1981, as shown against their names in column (2) shall, with effect from 1st February, 2001, continue and be deemed to have been appointed to their respective office under the provisions of the Act as shown against their names in column (3), for the unexpired term of their office or until further orders, as the case may be.

TABLE

1	2	3
The Deputy Governor, Reserve Bank of India, Central Office, Mumbai.	Section 6(1)(d) of the National Bank for Agriculture and Rural Development Act, 1981	Section 6(1)(c) of the National Bank for Agriculture and Rural Development Act, 1981, as amended by the National Bank for Agriculture and Rural Development Act, 2000 (55 of 2000)
Shri Devi Dayal, Special Secretary (Banking), Ministry of Finance, Department of Economic Affairs, (Banking Division), New Delhi	Section 6(1)(e) of the National Bank for Agriculture and Rural Development Act, 1981	Section 6(1)(d) of the National Bank for Agriculture and Rural Development Act, 1981, as amended by the National Bank for Agriculture and Rural Development Act, 2000 (55 of 2000)
Secretary, (Agri & Co-op), Ministry of Agriculture and Co-operation	Section 6(1)(e) of the National Bank for Agriculture and Rural Development Act, 1981	Section 6(1)(d) of the National Bank for Agriculture and Rural Development Act, 1981, as amended by the National Bank for Agriculture and Rural Development Act, 2000 (55 of 2000)
Secretary, Ministry of Rural Development	Section 6(1)(e) of the National Bank for Agriculture and Rural Development Act, 1981	Section 6(1)(d) of the National Bank for Agriculture and Rural Development Act, 1981, as amended by the National Bank for Agriculture and Rural Development Act, 2000 (55 of 2000)
Financial Commissioner Development and Secretary, Government of Punjab, Chandigarh	Section 6(1)(f) of the National Bank for Agriculture and Rural Development Act, 1981	Section 6(1)(e) of the National Bank for Agriculture and Rural Development Act, 1981, as amended by the National Bank for Agriculture and Rural Development Act, 2000 (55 of 2000)
Principal Secretary, Agri & Co-op Department, Government of Gujarat, Gandhinagar.	Section 6(1)(f) of the National Bank for Agriculture and Rural Development Act, 1981	Section 6(1)(c) of the National Bank for Agriculture and Rural Development Act, 1981, as amended by the National Bank for Agriculture and Rural Development Act, 2000 (55 of 2000)

[F.No. 7/14/97-B.O.I.]

RAMESH CHAND, Under Secy.

वाणिज्य और उद्योग मंत्रालय

(वाणिज्य विभाग)

नई दिल्ली, 4 अप्रैल, 2001

का.आ. 801.—केन्द्रीय सरकार, नियमित (क्वालिटी नियंत्रण और निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 7 की उपधारा 1 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स इन्स्पेक्शन एंड टेस्टिंग कं. (इंडिया) प्रा. लि. 24-1-30, थोम्पसन स्ट्रीट विशाखापटनम-530001 को जिनका रजिस्ट्रीकृत कार्यालय अकबर मेशन, पी-1, न्यू सी आई टी रोड (आईड सेन) कलकत्ता-700 073 में स्थित

है खनिज और ग्रयस्क समूह I का, जो वाणिज्य मंत्रालय की अधिसूचना सं. का. आ. 3975 तारीख 20 दिसम्बर, 1965 से संलग्न अनुमोची में लौह ग्रयस्क के नाम से विनिर्दिष्ट है इस अधिसूचना के राजपत्र में प्रकाशन की तारीख से तीन वर्ष की अवधि के लिए विशाखापटनम में निर्यात से पूर्व निरीक्षण करने के लिए निम्नलिखित शर्तों के अधीन अधिकरण के रूप में मांगता देती है, अर्थात् :—

(i) मैसर्स इन्स्पेक्शन एंड टेस्टिंग कं. (इंडिया) प्रा. लि. विशाखापटनम नियमित निरीक्षण परिषद् द्वारा इत निमित्त नाम निर्दिष्ट अधिकारियों का निर्यात (निरीक्षण) नियम 1965

के नियम 4 के अधीन निरीक्षण प्रमाणपत्र देने के लिए उनके द्वारा अपनाई गई निरीक्षण पद्धति की जांच करने के लिए पर्याप्त सुविधाएं उपलब्ध कराएंगी खनिज और अयस्क समूह-1

(ii) मैसर्स इस्पेक्शन एंड टेस्टिंग कं. (इंडिया) प्रा. लि. विशाखापट्टनम इस अधिसूचना के अधीन अपने कृत्यों के अनुपालन में ऐसे निर्देशों द्वारा आबद्ध होगी जो निर्देश (निरीक्षण और क्वालिटी नियंत्रण) द्वारा लिखित में समय-समय पर दिए जाएं।

[फा. सं. 5/3/2001-ई आई और ई पी]

पी. के. दास, निदेशक

## MINISTRY OF COMMERCE AND INDUSTRY

(Department of Commerce)

New Delhi, the 4th April, 2001

S.O. 801.—In exercise of the powers conferred by Sub-section (1) of Section 7 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963), the Central Government hereby recognises, for a period of three years from the date of publication of this notification, M/s. Inspection & Testing Co. (India) Pvt. Ltd., located at No. 24-1-30, Thompson Street, Visakhapatnam-530001, Andhra Pradesh and having their registered office at Akbar Mansion, P-1 New CIT Road (HIDE LANE) Calcutta-700073 as an agency for the inspection of Minerals and Ores, Group-I namely Iran Ore specified in Schedule annexed to Ministry of Commerce Notification No. S.O. 3975 dated the 20th December, 1965 prior to export at Visakhapatnam subject to the following conditions, namely :—

- (i) that M/s. Inspection & Testing Co. (India) Pvt. Ltd., Visakhapatnam shall give adequate facilities to the officers nominated by the Export Inspection Council in this behalf of examine the method of inspection followed by them in granting the certificate of inspection under rule 4 of Export of the Minerals and Ores Group-I (Inspection) Rules, 1965;
- (ii) that M/s. Inspection & Testing Co. (India) Pvt. Ltd., Visakhapatnam in the performance of their function under this notification shall be bound by such directives as the Director (Inspection and Quality Control) may give in writing from time to time.

[File No. 5/3/2001-EI&EP]

P. K. DAS, Director

नई दिल्ली, 4 अप्रैल, 2001

क्र. आ. 802.—केन्द्रीय सरकार, निर्यात (क्वालिटी नियंत्रण और निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 7 की उपधारा (1) द्वारा प्रदत्त शक्तियों का

प्रयोग करते हुए, मैसर्स फेराडो लैबोरेट्रीज, डी-सं. 24-1-30, हारून मंजिल, द्वितीय तल, थॉम्पसन स्ट्रीट, विशाखापट्टनम-530001 को खनिज तथा अयस्क (ग्रुप-1) अर्थात् वाणिज्य मंत्रालय की अधिसूचना सं. फा. आ. 3975 तारीख 20 दिसम्बर, 1965 से उपाबद्ध अनुसूची में विनिर्दिष्ट लौह अयस्क का विशाखापट्टनम में निर्यात से पूर्व निरीक्षण करने के लिए इस अधिसूचना के राजपत्र में प्रकाशन की तारीख से तीन वर्ष की अवधि के लिए अधिकरण के रूप में निम्नलिखित शर्तों के अधीन रहते हुए मान्यता प्रदान करती है, अर्थात् :—

- (1) मैसर्स फेराडो लैबोरेट्रीज, विशाखापट्टनम, निर्यात निरीक्षण परीक्षक द्वारा इस निमित्त नामनिर्दिष्ट अधिकारियों को खनिज तथा अयस्क (ग्रुप-1) के निर्यात (निरीक्षण) नियम, 1965 के नियम 4 के अधीन निरीक्षण प्रमाणपत्र अनुदत्त करने में उनके द्वारा अपनाई गई निरीक्षण पद्धति की जांच करने के लिए पर्याप्त सुविधाएं उपलब्ध कराएंगी।
- (2) मैसर्स फेराडो लैबोरेट्रीज, विशाखापट्टनम इस अधिसूचना के अधीन अपने कृत्यों के पालन में ऐसे निर्देशों द्वारा आबद्ध होगी जो निदेशक (निरीक्षण और क्वालिटी नियंत्रण) समय-समय पर लिखित में दे।

[फा. सं. 5/5/2001-ई. आई. एण्ड ई. पी.]

पी. के. दास, निदेशक

New Delhi, the 4th April, 2001

S.O. 802.—In exercise of the powers conferred by Sub-section (1) of Section 7 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963), the Central Government hereby recognises, for a period of three years from the date of publication of this notification, M/s. Ferrado Laboratories, D. No. 24-1-30, Haroon Manzil, 2nd Floor, Thompson Street, Visakhapatnam-530001 as an agency for the inspection of Minerals and Ores, Group-I namely Iron Ore specified in Schedule annexed to the Ministry of Commerce Notification No. S.O. 3975 dated the 20th December, 1965 prior to export at Visakhapatnam, subject to the following conditions, namely :—

- (i) that M/s. Ferrado Laboratories Visakhapatnam shall give adequate facilities to the officers nominated by the Export Inspection Council in this behalf to examine the method of inspection followed by them in granting the certificate of inspection under rule 4 of Export of the Minerals and Ores Group-I (Inspection) Rules, 1965;
- (ii) that M/s. Ferrado Laboratories, Visakhapatnam in the performance of their function under this notification shall be bound by such directives as the Director



(Inspection and Quality Control) may give in writing from time to time.

[File No. 5/5/2001-EI&EP]

P. K. DAS, Director

कोयला मंत्रालय

शुद्धि-पत्र

नई दिल्ली, 11 अप्रैल, 2001

का. भा. 803.—भारत के राजपत्र, तारीख 16 दिसम्बर, 2000 के भाग 2, खंड-3, उपखंड (ii) में पृष्ठ क्रमांक 8071 से 8072 पर प्रकाशित, भारत सरकार, कोयला मंत्रालय की अधिसूचना का. भा. 2725, तारीख 4 दिसम्बर, 2000 में:—

पृष्ठ क्रमांक— 8072 पर,

ग्राम पिडिया (भाग) में अर्जित किये गये प्लॉट संख्यांक में,

पंक्ति 1. — “669 9 (भाग), 670 (भाग)” के स्थान पर “669 (भाग), 670 (भाग)”, पढ़ें।

“ग्राम कल्याणपुर (भाग) में अर्जित किये गये प्लॉट संख्या” के स्थान पर

“ग्राम कल्याणपुर (भाग) में अर्जित किये गये प्लॉट संख्या पढ़ें।

[सं. 43015/14एस/96-एल एस डब्ल्यू/पी ग्रार आई डब्ल्यू]

संजय बहादुर, उप सचिव

## MINISTRY OF COAL

### CORRIGENDA

New Delhi, the 11th April, 2001

S.O. 803.—In the notification of the Government of India in the Ministry of Coal No. S.O. 2725, dated the 4th December, 2000, published in the Gazette of India, Part-II, Section-3, sub-Section (ii), dated the 16th December, 2000, at pages 8073 to 8074,

at page 8073

in line 5, for “quarry, bor, dig” read “quarry, bore, dig”,

at page 8074,

in plot numbers acquired in Village Pidiya (Part),

in line 2, for “744 to 746 (Part), 748” read “744 to 746, 747 (Part), 748”,

in line 5, for “1326 (Part), 132, (Part)”, read “1326 (Part), 1327 (Part)”,

in plot numbers acquired in Village Kalyanpur (Part),

in line 1, for “1674 (Par ), 1675 Par” read “1674 (Part), 1675 (Part)”,

for “1691 (Par ), 1697 Par” read “1691 (Part), 1697 (Part)”,

in line 2, for “1708 (Part), 1709 1711 (Part)”, read “1708, 1709 (Part), 1711 (Part)”,

in line 3, for “2378 (Par ”, read “2378 (Part)”,

in line 4, for “1201|3227”, read “2201|3227”.

[No. 43015/14/96-LSW|PRIW]

SANJAY BAHADUR, Deputy Secy.

नई दिल्ली, 11 अप्रैल, 2001

का. भा. 804.—केन्द्रीय सरकार को यह प्रतीत होता है कि इससे उपाबद्ध अनुसूची में उल्लिखित भूमि से कोयला अभिप्राप्त होने की संभावना है ;

अतः, अब, केन्द्रीय सरकार, कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) की धारा 4 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उक्त भूमि में कोयले का पूर्वक्षण करने के अपने आशय की सूचना देती है ;

इस अधिसूचना के अन्तर्गत आने वाले क्षेत्र के रेखांक संख्यांक रा./7/2000, तारीख 21 जुलाई, 2000 का निरीक्षण सेंट्रल कोलफील्ड्स लि. (राजस्व विभाग) दरभंगा हाऊस, रांची (झारखंड) के कार्यालय या कोयला नियंत्रक, काउंसिल हाऊस स्ट्रीट, कलकत्ता के कार्यालय या उपायुक्त, छतरा (झारखंड) के कार्यालय में किया जा सकता है ;

इस अधिसूचना के अधीन आने वाले भूमि में हितबद्ध सभी व्यक्ति, इस अधिसूचना के प्रकाशन की तारीख से नब्बे दिन के भीतर, उक्त अधिनियम की धारा 13 की उप-धारा (7) में निर्दिष्ट किए गए सभी नक्शे, रेखाचित्र और अन्य दस्तावेज भारताधिकार अधिकारी/विभागाध्यक्ष (राजस्व), सेंट्रल कोलफील्ड्स लि., दरभंगा हाऊस, रांची (झारखंड) को भेजेंगे।

## अनुसूची

## अमपाली ब्लॉक

## उत्तरी करणपुरा कोलकोल्ड्स

## जिला—छतरा

(पूर्वक्षण के लिए अधिसूचित भूमि वसति हुए)

क्र.सं.	गांव	थाना	थाना सं.	जिला	क्षेत्र एकड़ में	क्षेत्र हैक्टेयर में	टिप्पणियां
1.	बिगलात	तंडवा	49/206	छतरा	575.00	232.80	भाग
2.	होनहे	तंडवा	50/207	छतरा	725.00	293.52	भाग
3.	कुमरांग खुर्द	तंडवा	51/208	छतरा	1450.00	587.04	भाग
4.	कुमरांग कलां	तंडवा	52/209	छतरा	1010.00	508.90	भाग
5.	उरमु	तंडवा	54/211	छतरा	744.78	301.53	पूर्ण
कुल क्षेत्र					4504.78 एकड़ (लगभग)		
					या		
					1823.80 हैक्टेयर (लगभग)		

## सीमा वर्णन

- क—ख रेखा "क" से आरंभ होती है और होनहे गांव से जाती है और बिन्दु "ख" पर मिलती है।
- ख—ग—घ रेखा, होनहे गांव में से होकर, होनहे, नवडीह और कोएव गांवों की संयुक्त सीमा के साथ-साथ जाती है और बिन्दु "घ" पर मिलती है।
- घ—ङ—च—छ—ज रेखा, होनहे और हेचवली गांवों में चुन्ना, नदी की मध्य रेखा के साथ-साथ कुमरांग खुर्द और कुमरांग कलां गांवों से फिर कुमरांग कलां, गारीतौगा और उरमु गांवों में चुन्दु नदी की मध्य रेखा से होकर जाती है और बिन्दु "ज" पर मिलती है।
- ज—क रेखा बिगलात और होनहे गांवों से होकर जाती है और आरंभिक बिन्दु "क" पर मिलती है।

[सं. 43015/23/2000-पी आर आई डब्ल्यू]

संजय बहादुर, उप सचिव

New Delhi, the 11th April, 2001

S.O.804.—Whereas it appears to the Central Government that Coal is likely to be obtained from the lands mentioned in the Schedule hereto annexed;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 4 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957), the Central Government hereby gives notice of its intention to prospect for coal therein;

The Plan No. Rev./7/2000 dated the 31st July, 2000, of the area covered by this notification can be inspected in the Office of the Central Coalfields Limited (Revenue Department), Darbhanga House, Ranchi, Jharkhand or in the office of the Coal Controller, 1, Council House Street, Kolkata or in the Office of the Deputy Commissioner Chatra, (Jharkhand).

All persons interested in the land covered by this notification shall deliver all maps, charts and other document referred to in sub-section (7) of section 13 of the said Act to the Officer-in-Charge/Head of Department (Revenue, Central Coalfields Limited, Darbhanga House, Ranchi, Jharkhand within ninety days from the date of publication of this notification.

## SCHEDULE

## Amarpali Block

## North Karanpura Coalfield

## District—Chatra

(showing land notified for prospecting)

Sl. No.	Village	Thana	Thana Number	District	Area in Acres	Area in hectares	Remarks
1.	Binglat	Tandwa	49/206	Chatra	575.00	232.80	Part
2.	Honhe	Tandwa	50/207	Chatra	725.00	293.52	Part
3.	Kumrang Khurd	Tandwa	51/208	Chatra	1450.00	587.04	Part
4.	Kumrang Kalan	Tandaw	52/209	Chatra	1010.00	408.91	Part
5.	Urs	Tandwa	54/211	Chatra	744.78	301.53	Full
Total Area					4504.78 (approx.)		
					or 1823.80 (approx.)		

## Boundary description

A—B	Line start from 'A' and passes through in village Honhe and meets at point 'B'.
B—C—D	Line passes through in villages Honhe, along common boundary of villages Honhe, Naudiha and Koed and meets at point 'D'.
D—E—F—G—H	Line passes along Central Line of Chundra Nadi in villages Honhe and Heehabali through villages Kurmang Khurd and Kumrang Kalan, again central line of Chundra Nadi in villages Kumrang Kalan Garilaunga and Ursu and meets at point 'H'.
H—I—J—K	Line passes along central line of Barki Nadi and meets at point 'K'.
K—A	Line passes through in villages Binglat and Honhe and meets at starting point 'A'.

[No. 43015/23/2000/PRIW]

SANJAY BAHADUR Dy. Secy.

नई दिल्ली, 11 अप्रैल, 2001

का.आ. 305.—केन्द्रीय सरकार को यह प्रतीत होता है कि इससे उपाखण्ड अनुसूची में उल्लिखित परिक्षेत्र की भूमि में कोयला अभिप्राप्त दिए जाने की संभावना है।

अतः, अब, केन्द्रीय सरकार, कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 4 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उसमें कोयले का पूर्वेक्षण करने के अपने आशय की सूचना देती है।

इस अधिसूचना के अन्तर्गत आने वाले क्षेत्र की रेखांक सं. राजस्व/47/2000 तारीख 8 जून, 2000 का निरीक्षण नार्दन कोलफील्ड्स लिमिटेड (राजस्व अनुभाग) सिगरौली के कार्यालय में या कलेक्टर, सीधी (मध्य प्रदेश) के कार्यालय में या कोयला निगमक, 1 काउंसिल हाउस स्ट्रीट, कलकत्ता के कार्यालय में किया जा सकता है।

इस अधिसूचना के अन्तर्गत आने वाली भूमियों में हितबद्ध सभी व्यक्ति उक्त अधिनियम की धारा 13 की उपधारा (7) में निर्दिष्ट सभी नक्शों, चाटों और अन्य दस्तावेजों को, इस अधिसूचना के भारत के राजपत्र में प्रकाशन की तारीख से नब्बे दिन के भीतर, भारत-अधिकारी/विभागाध्यक्ष (राजस्व), नार्दन कोलफील्ड्स लिमिटेड, सिगरौली को परिदत्त करेंगे।

**अनुसूची**  
मेढौली ब्लाक  
नार्वेन कोलफील्ड्स लिमिटेड  
सिंगरौली  
जिला सीधी मध्य प्रदेश

पूर्वोक्षण के लिए अधिसूचित भूमि —

क्रम सं. ग्राम का नाम	तहसील	जिला	क्षेत्रफल एकड़ में (लगभग)	टिप्पणियाँ
1. मेढौली	सिंगरौली	सीधी (म.प्र.)	3741.00	भाग
2. सिगुरदा	सिंगरौली	सीधी (म.प्र.)	2163.00	भाग
3. चटका	सिंगरौली	सीधी (म.प्र.)	493.00	भाग
4. पंजरेह	सिंगरौली	सीधी (म.प्र.)	1569.00	भाग
5. चुरीवह	सिंगरौली	सीधी (म.प्र.)	353.00	भाग
6. मुहेर	सिंगरौली	सीधी (म.प्र.)	3872.00	भाग
7. सोलंग	सिंगरौली	सीधी (म.प्र.)	3.00	भाग
8. गोरबी	चितरंगी	सीधी (म.प्र.)	1170.00	भाग
9. नौरहिया	चितरंगी	सीधी (म.प्र.)	29.00	भाग
10. कठास	चितरंगी	सीधी (म.प्र.)	238.00	भाग
कुल योग :			13631.00 एकड़ (लगभग)	
			या	
			5516.39 हेक्टेयर (लगभग)	

**सीमा वर्णन**

क—ख	रेखा बिन्दु "क" से आरंभ होती है और ग्राम मुहेर, सोलंग पुनः मुहेर, नौरहिया तथा गोरबी होकर जाती है तथा बिन्दु "ख" पर मिलती है।
ख—ग	रेखा बिन्दु "ख" से आरंभ होती है और ग्राम गोरबी होकर जाती है तथा बिन्दु "ग" पर मिलती है।
ग—घ	रेखा बिन्दु "ग" से आरंभ होती है और ग्राम गोरबी होकर जाती है तथा बिन्दु "घ" पर मिलती है।
घ—ङ	रेखा बिन्दु "घ" से आरंभ होती है और ग्राम गोरबी और कठास होकर जाती है तथा बिन्दु "ङ" पर मिलती है।
ङ—च	रेखा बिन्दु "ङ" से आरंभ होती है और ग्राम मेढौली तथा ग्राम कुसवाई की सम्मिलित सीमा तथा ग्राम मेढौली और ग्राम पिडरताली की सम्मिलित सीमा तथा ग्राम पंजरेह और ग्राम पिडरताली की सम्मिलित सीमा से होकर जाती है तथा बिन्दु "च" पर मिलती है।
च—छ	रेखा बिन्दु "च" से आरंभ होती है और ग्राम पंजरेह तथा सिगुरदा होकर जाती है तथा बिन्दु "छ" पर मिलती है।
छ—ज	रेखा बिन्दु "छ" से आरंभ होती है तथा ग्राम सिगुरदा और चटका होकर जाती है तथा बिन्दु "ज" पर मिलती है।

ज—झ	रेखा बिन्दु "ज" से आरंभ होती है और ग्राम चटका तथा झिगुरवा से होकर जाती है तथा बिन्दु "झ" पर मिलती है।
झ—ञ	रेखा बिन्दु "झ" से आरंभ होती है और ग्राम झिगुरवा से होकर जाती है तथा बिन्दु "ञ" पर मिलती है।
ञ—ट	रेखा बिन्दु "ञ" से आरंभ होती है ग्राम झिगुरवा से होकर जाती है तथा बिन्दु "ट" पर मिलती है।
ट—ठ	रेखा बिन्दु "ट" से आरंभ होती है और उत्तर प्रदेश तथा मध्य प्रदेश राज्य की सम्मिलित सीमा से होकर जाती है तथा बिन्दु "ठ" पर मिलती है।
ठ—ड	रेखा बिन्दु "ठ" से आरंभ होती है और ग्राम चुरीदह से होकर तथा ग्राम करवागी और झिगुरवा की सम्मिलित सीमा तथा ग्राम करवागी और चटका की सम्मिलित सीमा तथा ग्राम मेढौली होकर जाती है तथा बिन्दु "ड" पर मिलती है।
ड—ढ	रेखा बिन्दु "ड" से आरंभ होती है और ग्राम मेढौली से होकर जाती है तथा बिन्दु "ढ" पर मिलती है।
ढ—ण	रेखा बिन्दु "ढ" से आरंभ होती है और ग्राम मेढौली से होकर जाती है तथा बिन्दु "ण" पर मिलती है।
ण—त	रेखा बिन्दु "ण" से आरंभ होती है और ग्राम मेढौली से होकर जाती है तथा बिन्दु "त" पर मिलती है।
त—थ	रेखा बिन्दु "त" से आरंभ होती है और ग्राम मेढौली से होकर जाती है तथा बिन्दु "थ" पर मिलती है।
थ—द	रेखा बिन्दु "थ" से आरंभ होती है और ग्राम मेढौली से होकर जाती है तथा बिन्दु "द" पर मिलती है।
द—ध	रेखा बिन्दु "द" से आरंभ होती है और ग्राम मेढौली से होकर जाती है तथा बिन्दु "ध" पर मिलती है।
ध—न	रेखा बिन्दु "ध" से आरंभ होती है और ग्राम मेढौली और मुहेर से होकर जाती है तथा बिन्दु "न" पर मिलती है।
न—प	रेखा बिन्दु "न" से आरंभ होती है और ग्राम मुहेर होकर जाती है तथा बिन्दु "प" पर मिलती है।
प—फ	रेखा बिन्दु "प" से आरंभ होती है और ग्राम मुहेर होकर जाती है तथा बिन्दु "फ" पर मिलती है।
फ—क	रेखा बिन्दु "फ" से आरंभ होती है और ग्राम मुहेर होकर जाती है तथा आरंभिक बिन्दु "क" पर मिलती है।

[स 43015/17/2000—पी आर आई डब्ल्यू]

सजय बहादुर, उप-सचिव

New Delhi, the 11th April, 2001

S.O. 805 —Whereas it appears to the Central Government that Coal is likely to be obtained from the lands in the locality mentioned in the schedule hereto annexed.

Now, therefore, in exercise of the powers conferred by sub-section (i) of section 4 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957), (hereinafter referred to as the said Act), the Central Government hereby gives notice of its intention to prospect for Coal therein.

The plan bearing number Rev/47/2000 dated the 8th June, 2000 of the area covered by this notification can be inspected in the office of the Northern Coalfields Limited (Revenue Section), Singrauh or in the office of the Collector Sidhi (Madhya Pradesh) or in the office of the Coal Controller, 1, Council House Street, Calcutta.

All persons interested in the lands covered by this notification shall deliver all maps, charts and other documents referred to in sub-section (7) of section 13 of the said Act to the Officer-in-charge/Head of Department (Revenue), Northern Coalfields Limited, Singrauli within 90 days from the date of the publication of this notification in the Gazette of India.

SCHEDULE  
MEDHAULI BLOCK  
NORTHERN COALFIELDS LIMITED  
SINGRAULI  
DISTRICT—SIDHI (MADHYA PRADESH)

Land Notified for Prospecting :

Sl. No.	Name of village	Tahsil	District	Approx area in Acres	Remarks
1	2	3	4	5	6
1.	Medhauli	Singrauli	Sidhi (MP)	3741.00	Part
2.	Jhingurda	-do-	-do-	2163.00	Part
3.	Chatka	-do-	-do-	493.00	Part
4.	Panjreh	-do-	-do-	1569.00	Part
5.	Churidah	-do-	-do-	353.00	Part
6.	Muher	-do-	-do-	3872.00	Part
7.	Solang	-do-	-do-	3.00	Part
8.	Gorbi	Chitrangi	-do-	1170.00	Part
9.	Naurhiya	-do-	-do-	29.00	Part
10.	Kathas	-do-	-do-	238.00	Part
Total				13631.00 acres (approximately) or 5516.39 Ha (approximately)	

Boundary Description :

A—B	Line starts from point 'A' and passes through villages Muher, Solang again Muher, Naurhiya and Gorbi and meets at point 'B'.
B—C	Line starts from point 'B' and passes through village Gorbi and meets at point 'C'.
C—D	Line starts from point 'C' and passes through village Gorbi and meets at point 'D'.
D—E	Line starts from point 'D' and passes through village Gorbi and Kathas and meets at point 'E'.
E—F	Line starts from point 'E' and passes through common village boundary of village Medhauli and Kuswai and common village boundary of village Medhauli and Pindertali and common village boundary of village Panjreh and Pindertali and meets at point 'F'.
F—G	Line starts from point 'F' and passes through village Panjreh and Jhingurda and meets at point 'G'.
G—H	Line starts from point 'G' and passes through village Jhingurda and Chatka and meets at point 'H'.
H—I	Line starts from point 'H' and passes through village Chatka and Jhingurda and meets at point 'I'.
I—J	Line starts from point 'I' and passes through village Jhingurda and meets at point 'J'.
J—K	Line starts from point 'J' and passes through village Jhingurda and meets at point 'K'.
K—L	Line starts from point 'K' and passes through common state boundary of Uttar Pradesh and Madhya Pradesh and meets at point 'L'.
L—M	Line starts from point 'L' and passes through village Churidah and through common village boundary of village Karwari and Jhingurda and common village boundary of village Karwari and Chatka and through village Medhauli and meets at point 'M'.
M—N	Line starts from point 'M' and passes through village Medhauli and meets at point 'N'.
N—O	Line starts from point 'N' and passes through village Medhauli and meets at point 'O'.

O—P	Line starts from point 'O' and passes through village Medhauli and meets at point 'P'.
P—Q	Line starts from point 'P' and passes through village Medhauli and meets at point 'Q'.
O—R	Line starts from point 'Q' and passes through village Medhauli and meets at point 'R'.
R—S	Line starts from point 'R' and passes through village Medhauli and meets at point 'S'.
S—T	Line starts from point 'S' and passes through village Medhauli & Muher and meets at point 'T'.
T—U	Line starts from point 'T' and passes through village Muher and meets at point 'U'.
U—V	Line starts from Point 'U' and passes through village Muher and meets at point 'V'.
V—A	Line starts from point 'V' and passes through village Muher and meets at starting point 'A'.

[No.43015/17/2000-PRIW]  
SANJAY BAHADUR, Dy. Secy.

नई दिल्ली, 11 अप्रैल, 2001

का आ 806—केन्द्रीय सरकार को यह प्रतीत होता है कि इसमें उपाखण्ड अनुसूची में उल्लिखित भूमि में कोयला अभि-  
प्राप्त किए जाने की संभावना है,

अतः, अब केन्द्रीय सरकार, कोयला धारक क्षेत्र (अर्थन और विकास) अधिनियम, 1957 (1957 का 20) (जिसे इसमें  
इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 4 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उस  
क्षेत्र में कोयले का पूर्वक्षण करने के अपने आशय की सूचना देती है।

इस अधिसूचना के अन्तर्गत आने वाले क्षेत्र के रेखांक म. सी-1(ई) III/जे आर/681-102000, तारीख 24 अक्टूबर, 2000  
का निरीक्षण वेस्टर्न कोनफीन्डम लिमिटेड (राजस्व विभाग), कोल इस्टेट सिविल लाईन्स, नागपुर-440 001 (महाराष्ट्र) के कार्यालय में  
या कलेक्टर, चन्द्रपुर (महाराष्ट्र) के कार्यालय में या कोयला नियंत्रक, 1, काउंसिल हाऊस स्ट्रीट, कलकत्ता के कार्यालय में किया जा  
सकता है।

इस अधिसूचना के अन्तर्गत आने वाली भूमि में, हितवद्ध सभी व्यक्ति उक्त अधिनियम की धारा 13 की उपधारा  
(7) में निर्दिष्ट सभी नक्शों, चार्टों और अन्य दस्तावेजों को इस अधिसूचना के राजपत्र में प्रकाशन की तारीख से नब्बे दिन  
के भीतर भारसाधक अधिकारी/विभागाध्यक्ष (राजस्व), वेस्टर्न कोनफीन्डम लिमिटेड, कोल इस्टेट, सिविल लाईन्स, नागपुर-440 001  
(महाराष्ट्र) को भेजेगे।

#### अनुसूची

नादगाव इनक्लाइन विस्तार ब्लाक (फेज-II)

चन्द्रपुर क्षेत्र

जिला चन्द्रपुर (महाराष्ट्र)

(रेखांक म. सी-1(ई) III/जे आर/681-102000 तारीख 24 अक्टूबर, 2000)

क्रम संख्या	ग्राम का नाम	पटवारी मर्कल संख्या	तहसील	जिला	क्षेत्र हेक्टेयर में	टिप्पणी
1.	वीसापुर	7	बल्लापुर	चन्द्रपुर	15.61	भाग
2	भिवकुंड	7	बल्लापुर	चन्द्रपुर	8.11	भाग
कुल क्षेत्र 23.72 हेक्टेयर						(लगभग) या 58.61 एकड़ (लगभग)

सीमा वर्णन :

क—ख :

रेखा, बिन्दु "क" से आरंभ होती है और ग्राम वीसापुर से होकर जाती है फिर ग्राम भिवकुंड  
से होकर ग्राम बढसी है और बिन्दु "ख" पर मिलती है।

ख—ग :

रेखा ग्राम भिवकुंड से होकर जाती है और बिन्दु "ग" पर मिलती है।

ग—क :

रेखा ग्राम भिवकुंड एवं वीसापुर की सम्मिलित ग्राम सीमा के साथ-साथ जाती है फिर ग्राम  
वीसापुर से होकर जाती है और आरंभिक बिन्दु "क" पर मिलती है।

[संख्या : 43015/3/2001—गी आर आई डल्यू]

संजय बहादुर, उप सचिव

New Delhi, the 11th April, 2001

S O 806—Whereas it appears to the Central Government that coal is likely to be obtained from the lands mentioned in the schedule hereto annexed,

Now, therefore, in exercise of the powers conferred by sub section (1) of section 4 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957) (hereinafter referred to as the said Act), the Central Government hereby gives notice of its intention to prospect for coal therein,

The plan bearing No C-1(E)II/JR/681-102000 dated the 24th October, 2000 of the area covered by this notification can be inspected in the office of the Western Coalfields Limited (Revenue Department), Coal Estate, Civil Lines, Nagpur-440 001 (Maharashtra) or in the office of the Collector, Chandrapur (Maharashtra) or in the office of the Coal Controller, 1 Council House Street, Calcutta

All persons interested in the lands covered by this notification shall deliver all maps, charts and other documents referred to in sub-section (7) of section 13 of the said Act to the Officer-in Charge/Head of the Department (Revenue), Western Coalfields Limited, Coal Estate, Civil Lines, Nagpur-440 001 (Maharashtra) within ninety days from the date of publication of this notification

**SCHEDULE**  
**NANDGAON INCLINE EXTENSION BLOCK (PHASE-II)**  
**CHANDRAPUR AREA**  
**DISTRICT CHANDRAPUR (MAHARASHTRA)**

(Plan No C-1(E)II/JR/681-102000 dated the 24th October, 2000)

Sl No	Name of village	Patwar circle number	Tahsil	District	Area in Hectares	Remarks
1	2	3	4	5	6	7
1.	Visapur	7	Ballarpur	Chandrapur	15.61	Part
2.	Bhiokund	7	Ballarpur	Chandrapur	8.11	Part
Total area					23.72 hectares (approximately)	
or					58.61 acres (approximately)	

**Boundary description —**

- A—B Line starts from point 'A' and passes through village Visapur then proceeds through village Bhiokund and meets at point 'B'
- B—C Line passes through village Bhiokund and meets at point 'C'.
- C—A Line passes along the common village boundary of villages Bhiokund and Visapur then passes through village Visapur and meets at starting point 'A'.

[No 43015/3/2001-PRIW]

SANJAY BHADUR, Dy. Secy.

सूचना और प्रसारण मंत्रालय

शुद्धिपत्र \*

नई दिल्ली, 28 मार्च, 2001

का.प्र. 8(7) — इस मंत्रालय की दिनांक 16-2-2001 की समसंख्यक अधिसूचना में आशिक संशोधन करते हुए क्रम संख्या 13 पर क्षेत्रीय प्रदर्शनी एकक, कलकत्ता के स्थान पर क्षेत्रीय प्रदर्शनी एकक (परिवार कल्याण), कोलकाता पठा जाए।

[म ई 11011/1/93 हिन्दी]

समय सिंह कटारिया, निदेशक (राजभाषा)

**MINISTRY OF INFORMATION AND BROADCASTING**  
**CORRIGENDUM**

New Delhi, the 28th March, 2001

S.O. 807 — In partial modification in this Ministry's notification of even no. dated 16-2-2001 at Serial No 13, the Regional Exhibition Unit, Calcutta may be read as Regional Exhibition Unit (Family Welfare), Kolkata

[No. E-11011/1/93-Hindi]

S. S. KATARIA, Director (OL)



## उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय

( उपभोक्ता मामले विभाग )

नई दिल्ली, 3 अप्रैल, 2001

का. आ. 808.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल ( नीचे दी गई आकृति देखें ) बाट और माप मानक अधिनियम, 1976 ( 1976 का 60 ) और बाट और माप मानक ( मॉडलों का अनुमोदन ) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधियों में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा ( 7 ) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स कारिको डिजिटल सिस्टम्स, 26 जयश्री शापिंग सेंटर बटवा, जी आई डी सी रोड, अहमदाबाद-382445 गुजरात द्वारा विनिर्मित उच्च यथार्थता वर्ग ( यथार्थता वर्ग II ) वाले "के डी एस" श्रृंखला के अंकीय सूचन सहित स्वतः सूचक, अस्वचालित इलेक्ट्रॉनिक तोलन उपकरण ( मेजतल प्रकार ) के मॉडल का ( जिसे इसमें इसके पश्चात् मॉडल कहा गया है ) और जिसके ब्रांड का नाम "कारिको" है और जिसे अनुमोदन चिह्न आई एन डी/09/00/137 दिया गया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है;

यह मॉडल उच्च यथार्थता वर्ग ( यथार्थता वर्ग II ) का अंकीय सूचन सहित मेजतल प्रकार का एक तोलन उपकरण है जिसकी अधिकतम क्षमता 11 कि. ग्रा. और न्यूनतम क्षमता 50 ग्राम है। सत्यापन मापमान अन्तराल ( ई ) मान 1 ग्राम है। उपकरण 230 वोल्ट और 50 हर्टज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है;



और, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा ( 12 ) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि मॉडल के इस अनुमोदन प्रमाणपत्र के अन्तर्गत, उसी श्रृंखला के उसी मेक, यथार्थता और कार्यपालन वाले ऐसे उपकरण भी होंगे, जिनकी अधिकतम क्षमता 50 कि.ग्रा. तक है और जिनका विनिर्माण उसी विनिर्माता द्वारा उम्मी सिद्धान्त, डिजाइन और उम्मी सामग्री से किया जाता है जिसमें अनुमोदित मॉडल का विनिर्माण किया गया है, और जिनके सत्यापन मापमान के अन्तराल ( एन ) की अधिकतम संख्या 100000 से कम या उसके बराबर है ( एन < 100000 ) तथा जिसका "ई" मान  $1 \times 10^{-6}$ ,  $2 \times 10^{-6}$  और  $5 \times 10^{-6}$  है जिसमें के धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य है।

[ फा. सं. डब्ल्यू. एम. -21(56)/99 ]

पी. ए. कृष्णमूर्ति, निदेशक, विधिक माप विज्ञान

## MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION

## (Department of Consumer Affairs)

New Delhi the 3rd April, 2001

**S.O. 808.**—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see figure) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions,

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the Model of non-automatic weighing instrument (table top type) with digital indication (hereinafter referred to as the model) of "KES" series belonging to high accuracy class (Accuracy class II) and with brand name "KARICO" manufactured by M/s Karico Digital Systems, 26, Jayshree Shopping Centre, Vatava, G I D C Road, Ahmedabad-382445, Gujarat and which is assigned the approval mark IND/09/00/137,

The model is a non-automatic weighing instrument of table top type with digital indication of maximum capacity 11kg, minimum capacity of 50g and belonging to high accuracy class (accuracy class II). The value of verification scale interval (e) is 1g. The display unit is of light emitting diode type. The instrument operates on 230 volts and 50-Hertz alternate current power supply,



Further, in exercise of the powers conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval is valid for all similar make accuracy and performance of same series with minimum capacity upto 50kg, and with maximum number of verification scale interval (n) less than or equal to 100 000 (n = 100 000) and with e value to  $1 \times 10^5$ ,  $2 \times 10^5$  and  $2.5 \times 10^5$  being a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle design and with the same materials which, the approved model has been manufactured.

(F No. WM-21(56)/99)

For publication in the Official Gazette

नई दिल्ली, 3 अप्रैल, 2001

का. आ. 809—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त मापन यंत्रण ( नीचे दी गई आकृति देखें ) बाट और माप मानक अधिनियम, 1976 ( 1976 का 60 ) और बाट और माप मानक (मॉडलों के अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात को संभावना है कि लगातार प्रयोग की अवधियों में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स कारिको डिजिटल सिस्टम्स, 16, जयश्री शॉपिंग सेंटर बटवा, जी आई डी सी रोड, अहमदाबाद-382445 गुजरात द्वारा विनिर्मित मध्यम यथार्थता वर्ग ( यथार्थता वर्ग III ) वाले “ के डी एस ” श्रृंखला के अंकीय सूचन सहित अत्यधिकतम तोलन उपकरण ( प्लेटफार्म प्रकार ) के मॉडल का, ( जिसमें इसमें इसके पश्चात् मॉडल कहा गया है ) और जिसके ब्रांड का नाम “ कारिको ” है, और जिसे अनुमोदन चिह्न आई एन डी/09/00/138 दिया गया है अनुमोदन प्रमाणपत्र प्रकाशित करती है;

यह मॉडल मध्यम यथार्थता वर्ग ( यथार्थता वर्ग III ) का अंकीय सूचन सहित प्लेटफार्म प्रकार का तोलन उपकरण है जिसकी अधिकतम क्षमता 30 कि. ग्रा. और न्यूनतम क्षमता 100 ग्राम है। स्थापन मापमान अंतराल ( ई ) का मान 5 ग्राम है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है;



और, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि मॉडल के इस अनुमोदन प्रमाणपत्र के अन्तर्गत, उसी श्रृंखला के उम्मी मेक, यथार्थता और कार्यपालन वाले ऐसे उपकरण भी होंगे, जिनकी अधिकतम क्षमता 5 टन तक है और जिनका विनिर्माण उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन और उसी सामग्री से किया जाता है जिससे अनुमोदित मॉडल का विनिर्माण किया गया है, और जिनके स्थापन मापमान के अंतराल ( एन ) की अधिकतम संख्या 10,000 से कम या उसके बराबर है ( एन < 10,000 ) तथा जिसका “ ई ” मान  $1 \times 10^3$ ,  $2 \times 10^3$  और  $5 \times 10^3$  है जिसमें के धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य है।

[ फा. सं. डब्ल्यू. एम.-21(56)/99 ]

पी. ए. कृष्णमूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 3rd April, 2001

**S.O. 809.**—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see figure) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby publishes the certificate of approval of Model of non-automatic weighing instrument (platform type) with digital indication (hereinafter referred to as the model) of "KDS" series belonging Medium accuracy class (Accuracy class III) and with brand name "KARICO" manufactured by M/s Karico Digital Systems, 26, Jayshree Shopping Centre, Vatava, G.I.D.C. Road, Ahmedabad-382445, Gujarat and which is assigned the approval mark IND/09/00/138;

The model is a non-automatic weighing instrument of platform type with digital indication of maximum capacity 30 kg, minimum capacity 100 g. and belonging to medium accuracy class (accuracy class III). The value of verification scale interval (e) is 5 g. The display unit is of light emitting diode (LED). The instrument operates on 230 volts, 50-Hertz alternate current power supply;



Further, in exercise of the power conferred by sub-section (12) of section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the Model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity upto 5 tonne and with maximum number of verification scale interval (n) less than or equal to 10,000 ( $n \leq 10,000$ ) and with 'e' value to  $1 \times 10^k$ ,  $2 \times 10^k$  and  $5 \times 10^k$  k being a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials which, the approved model has been manufactured.

[F. No. W.M.-21(56)/99]

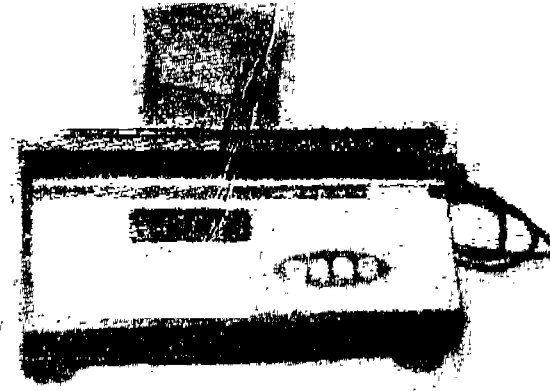
P. A. KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 10 अप्रैल, 2001

का. आ. 810—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) और बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप हैं और इस बात की संभावना है कि लगातार प्रयोग की अवधियों में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उच्च यथार्थता वर्ग (यथार्थता वर्ग II) वाली “डी टी” शृंखला की स्वतः सूचक, अस्वचालित, (टेबल टॉप प्रकार का) अंकक सूचन सहित तोलन उपकरण के मॉडल का, जिसके ब्रांड का नाम “डिजिटैक” है (जिसे इसमें इसके पश्चात् “मॉडल” कह गया है) और जिसका विनिर्माण मैसर्स डिजिटैक सिस्टम्स, स्वामेय, कुहा, कथा लाल राजमार्ग देशक्रोम, अहमदाबाद द्वारा किया गया है और जिसे अनुमोदन चिह्न आई एन डी/09/2000/51 समनुदेशित किया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है;

यह मॉडल (आकृति देखें) जिसकी अधिकतम क्षमता 11 कि. ग्रा. और न्यूनतम क्षमता 50 ग्रा. का तोलन उपकरण है। सत्यापन मापमान अन्तराल (ई) 1 ग्राम है। इसमें एक आद्येतुलन युक्ति है जिसका शत प्रतिशत व्यलकलनात्मक धारित आद्येतुलन प्रभाव है। भार ग्राही 260 मिलीमीटर × 290 मिलीमीटर के आकार का आयताकार टुकड़ा है। प्रकाश उत्सर्जक डायोड (प्र.उ.डा.) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज आवृत्ति की प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है;



और, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि मॉडल के इस अनुमोदन प्रमाणपत्र के अन्तर्गत, उसी शृंखला वाला ऐसा तोलन उपकरण भी होगा, जिसका विनिर्माण उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन और उसी सामग्री से किया जाता है जिससे अनुमोदित मॉडल का विनिर्माण किया गया है, और जिसकी अधिकतम क्षमता 50 कि. ग्रा. तक है और जिसके सत्यापन मापमान अन्तराल (एन) की अधिकतम संख्या 100,000 से कम या उसके बराबर तक है (एन  $\leq$  100,000) तथा जिसका “ई” मान  $1 \times 10^{-6}$ ,  $2 \times 10^{-6}$  और  $5 \times 10^{-6}$  है जहां के धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य है।

[फा. सं. डब्ल्यू. एम.-21(37)/98]

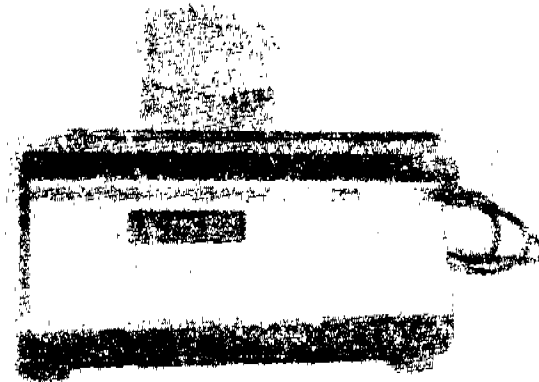
पी. ए. कृष्णमूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 10th April, 2001

**S.O. 810.**—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions:

Now, therefore, in exercise of the powers conferred by Sub-section (7) of Section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the Model of the self-indicating, non-automatic, (table top type) weighing instrument with digital indication of "DT" series of High accuracy class (Accuracy class II) with brand name "DIGITECH" (hereinafter referred to as the model) manufactured by M/s DIGI Tech Systems, Twamev, Kula Kathalal Highway, Deshcroy, Ahmedabad and which is assigned the approval mark IND/09/2000/51.

The model (see figure given) is a weighing instrument with a maximum capacity of 11 kg. and minimum capacity of 50g. The verification scale interval value (e) is 1g. It has a tare device with a 100 per cent subtractive retained tare effect. The load receptor is of rectangular dimension of section of 260 x 290 millimetre. The light emitting diode (LED) display indicates the weighing result. The instrument operates on 230 volts and 50-Hertz alternate current power supply.



Further, in exercise of the powers conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the Model shall also cover the weighing instrument of same series with maximum capacity upto 50kg. with number of verification scale interval (n) less than or equal to 100,000 ( $n \leq 100,000$ ) and with 'e' value  $1 \times 10^k$ ,  $2 \times 10^k$ ,  $5 \times 10^k$ , k being a positive or negative whole number or equal to zero, manufactured by the same manufacturer with the same principle, design and with the same materials with which, the approved model has been manufactured.

[F. No. WM -21(37)/98]

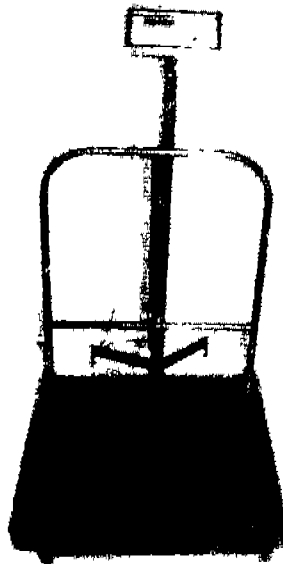
P. A. KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 10 अप्रैल, 2001

का. आ. 811 —केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करन के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल ( नीचे दी गई आवृत्ति देखें ) बाट और माप मानक अधिनियम, 1976 ( 1976 का 60 ) और बाट और माप मानक ( मॉडलो का अनुमोदन ) नियम, 1987 के उपबंधों के अनुरूप हैं और इस बात की संभावना है कि लगातार प्रयोग को अवधियों में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करत, रहेगा,

अतः, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मध्यम यथार्थता वर्ग ( यथार्थता वर्ग III ) वाली "डो टी" श्रृंखला की अतः सूक्ष्म, अस्वच्छालि ( प्लेट फार्म प्रकार का ) अंकक सूचन सहित तोलन उपकरण के मॉडल का, जिसका ब्रांड का नाम "डिजिटैक" है ( जिसे इसमें इसके पश्चात् "मॉडल" कहा गया है ) और जिसका विनिर्माण मैसर्स डिजिटैक मिररटम्स, म्यम्बै, कृष्णा, कथा लाल राजमार्ग दशक्रोम, अहमदाबाद द्वारा किया गया है और जिसे अनुमोदन चिह्न आई एन डी/09/2000/52 समनुदेशित किया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है;

यह मॉडल ( आवृत्ति देखें ) जिसकी अधिकतम क्षमता 60 कि. ग्रा. और न्यूनतम क्षमता 200 ग्रा. का तोलन उपकरण है। मस्यूपन मापमान अन्तराल ( ई ) 10 ग्राम है। इसमें एक आद्यतुलन युक्ति है जिसका शत प्रतिशत म्यलकलनात्मक धारित आद्यतुलन प्रभाव है। प्रकाश उत्सर्जन डायोड ( प ड ड ) प्रदर्श तोलन परिणाम उपदर्शित करता है। आकारण 230 मील् और 100 मील् प्रत्यावर्ती द्वारा विद्युत प्रदाय पर कार्य करता है



अतः, केन्द्रीय सरकार, के. आ. 811 की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि उक्त मॉडल अनुमोदन प्रमाणपत्र के अंतर्गत उपयुक्त सेवा प्रदान करने वाला उपकरण भी होगा, जिसका विनिर्माण उम्मी विनिर्माता द्वारा उम्मी मि. ड्राफ्ट, इंडिया और उम्मी मासगी से किया जाता है जिससे अनुमोदन मॉडल का विनिर्माण किया गया है, और जिसकी अधिकतम क्षमता 5 टन है और जिसमें मस्यूपन मापमान अन्तराल ( एन ) की अधिकतम गरम्या 10,000 ग. कम या उसके बराबर तक है ( एन  $\leq 10,000$  ) तथा जिसका "ई" मान 1  $\times 10^1$ , 2  $\times 10^1$  और 5  $\times 10^1$  है अतः क धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य है।

[फा स इन्सु एम 21(37)/98]

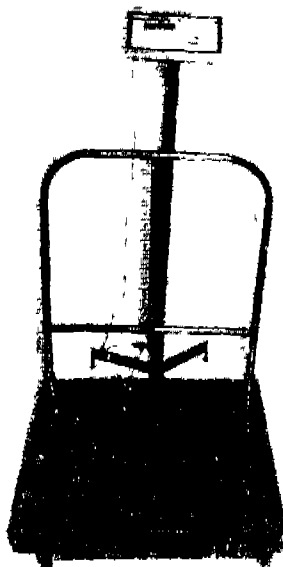
नो ग कृष्णमूर्ति, स. य. क. विभिन्न माप निज्ञान

New Delhi, the 10th April, 2001

**S.O. 811.**—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-section (7) of Section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the Model of the self-indicating, non-automatic, (platform type) weighing instrument with digital indication of "DT" series of Medium accuracy class (Accuracy class III) with brand name "DIGITECH" (hereinafter referred to as the model) manufactured by M/s DIGI Tech Systems, Twamev, Kuha, Kathalal Highway, Deshcrov, Ahmedabad and which is assigned the approval mark IND/09/2000/52,

The model (see figure given) is a weighing instrument with a maximum capacity of 60kg. and minimum capacity of 200g. The verification scale interval value (e) is 10g. It has a tare device with a 100 per cent subtractive retained tare effect. The light emitting diode (LED) display indicates the weighing result. The instrument operates on 230 volts and 50-Hertz alternate current power supply,



in exercise of the powers conferred by Sub-section (12) of Section 36 of the said Act, the C  
by declares that this certificate of approval of the Model shall also cover the weighing instrum  
same series with maximum capacity 5 tonne with number of verification scale interval (n) less than or equal to 10,000  
( $n \leq 10,000$ ) and with 'e' value  $1 \times 10^k$ ,  $2 \times 10^k$ ,  $5 \times 10^k$ , k being a positive or negative whole number or equal to zero, manufactured  
by the same manufacturer with the same principle, design and with the same materials with which, the approved model has  
been manufactured

[F No. W M -21(37)/98]

P. A. KRISHNAMOORTHY, Director, Legal Metrology

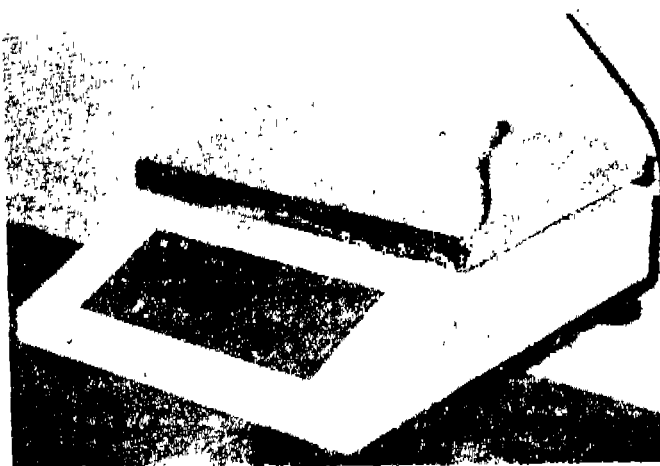


नई दिल्ली, 10 अप्रैल, 2001

**का. आ. 812.**—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम 1976 (1976 का 60) और बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधियों में भी उक्त मॉडल अपनी यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स वेइटैक, 71 लक्ष्मी निवास, न्यू थिपासांद्रा, बंगलौर-560075 द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग III) वाले "डब्ल्यू टी टी-101" भुंखला के अस्थचालित तोलन उपकरण (टेबल टाप प्रकार) के मॉडल को, जिसके ब्रांड का नाम "वेइटैक" है (जिसे इसमें इसके पश्चात् मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2000/238 समनुदेशित किया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है;

यह मॉडल (आकृति देखें) (टेबल टाप प्रकार का) अस्थचालित तोलन उपकरण है। इसकी अधिकतम क्षमता 10 कि. ग्रा. और न्यूनतम क्षमता 40 ग्रा. है। स्थापन मापमान (ई) का मान 2 ग्राम है। इसमें एक आद्येतुलन युक्त है जिसका शत प्रतिशत व्यवकलनात्मक धारित आद्येतुलन प्रभाव है। भारग्राही आयताकार खंड का है जिसकी भुजाएं 250 × 230 मि. मी. हैं। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है;



और, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि मॉडल के इस अनुमोदन प्रमाणपत्र के अन्तर्गत, उसी भुंखला के उसी मंच यथार्थता और कार्यपालन वाले ऐसे तालन उपकरण भी होंगे, जिनकी अधिकतम क्षमता 50 किलोग्राम तक है और जिनका विनिर्माण उसी विनिर्माता द्वारा उसी मिस्रात, डिजाइन और उसी सामग्री से किया जाता है जिसमें अनुमोदित मॉडल का विनिर्माण किया गया है, और जिनके स्थापन मापमान अंतराल (एन) की संख्या 100 मि.मा. से 2 ग्रा. तथा "ई" मान के लिए 100 से 10,000 की रेंज में और स्थापन मापमान अंतराल (एन) की संख्या 5 ग्राम या अधिक "ई" मान के लिए 500 से 10,000 की रेंज में है तथा जिनका "ई" मान  $1 \times 10^{-6}$ ,  $2 \times 10^{-6}$  और  $5 \times 10^{-6}$  है जिसमें के घनात्मक या चतुष्पात्मक पूर्णांक या शून्य के समतुल्य है।

[फा. सं. डब्ल्यू. एम. 21(128)/2000]

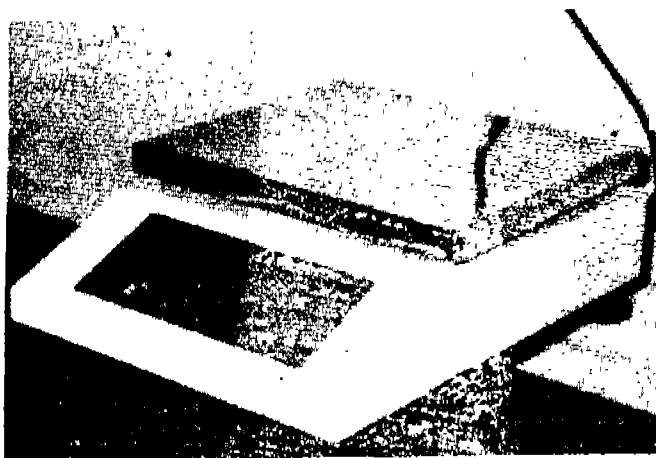
पी. ए. कृष्णमूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 10th April, 2001

**S.O. 812.**—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-section (7) of Section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the Model of the non-automatic, weighing instrument (Table top type) belonging to medium accuracy (accuracy class III) of "WT-T-101" series with brand name "WEITEK" (herein referred to as the model) manufactured by M/s. Weitek, 71 Lakshmi Nivas, New Thipasandra, Bangalore-560075 and which is assigned the approval mark IND/09/2000/238;

The said model (see figure given) is non-automatic weighing instrument (Table Top type). The maximum capacity is 10kg. and minimum capacity of 40g. The value of verification scale interval value (e) is 2g. It has a tare device with a 100 percent subtractive retained tare effect. The load receptor is of rectangular section of side 250x230 mm. The light emitting diode (LED) display indicates the weighing result. The instrument operates on 230 volts and 50-Hertz alternate current power supply;



similar make, accuracy and performance of same series with maximum capacity upto 50 kg. and with number of verification scale interval (n) in the range 100 to 10,000 for 'e' value 100 mg to 2 g and with number of verification scale interval (n) in the range 500 to 10,000 for 'e' value of 5g or more with 'e' value of  $1 \times 10^k$ ,  $2 \times 10^k$  and  $5 \times 10^k$ , k being a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the approved model has been manufactured

[F. No. W M -21(128)/2000]

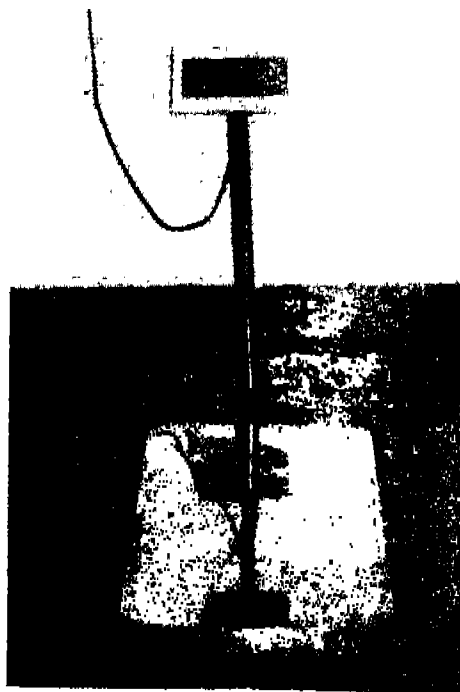
P. A. KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 10 अप्रैल, 2001

का. आ. '813.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (आकृति नीचे दी गई है) बाट और माप मानक अधिनियम, 1976 (1976 का 60) और बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधियों में भी उक्त मॉडल अपनी यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स वेइटेक, 71 लक्ष्मी निवास, न्यू थिपासांद्रा, बंगलौर-560075 द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग III) वाले "डब्ल्यू टी पी-201" शृंखला के अस्वचालित तोलन उपकरण (प्लेटफार्म प्रकार) के मॉडल का, जिसके ब्रांड का नाम "वेइटेक" है (जिसे इसमें इसके पश्चात् मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2000/239 समनुदेशित किया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है;

यह मॉडल (आकृति देखें) (प्लेटफार्म प्रकार का) अस्वचालित तोलन उपकरण है। इसकी अधिकतम क्षमता 150 कि. ग्रा. और न्यूनतम क्षमता 1 कि.ग्रा. है। सत्यापन मापमान (ई) का मान 50 ग्राम है। इसमें एक आघेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आघेयतुलन प्रभाव है। भारग्राही आयताकार खंड का है जिसकी भुजाएं 550 × 450 मि.मी. हैं। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्टज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।



और, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करता है कि मॉडल के इस अनुमोदन प्रमाणपत्र के अन्तर्गत, उसी शृंखला के उसी मेक, यथार्थता और कार्यपालन वाले ऐसे तोलन उपकरण भी होंगे, जिनकी अधिकतम क्षमता 50 किलोग्राम तक है और जिनका विनिर्माण उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन और उसी सामग्री से किया जाता है जिससे अनुमोदित मॉडल का विनिर्माण किया गया है, और जिनके सत्यापन मापमान अंतराल (एन) की संख्या 100 मि.ग्रा. से 2 ग्रा. तथा "ई" मान के लिए 100 से 10,000 की रेंज में और सत्यापन मापमान अंतराल (एन) की संख्या 5 ग्राम या अधिक "ई" मान के लिए 500 से 10,000 की रेंज में है तथा जिनका "ई" मान  $1 \times 10^5$ ,  $2 \times 10^5$  और  $5 \times 10^5$  है जिसमें के घनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य है।

[ फा. सं. डब्ल्यू. एम.-21(128)/2000 ]

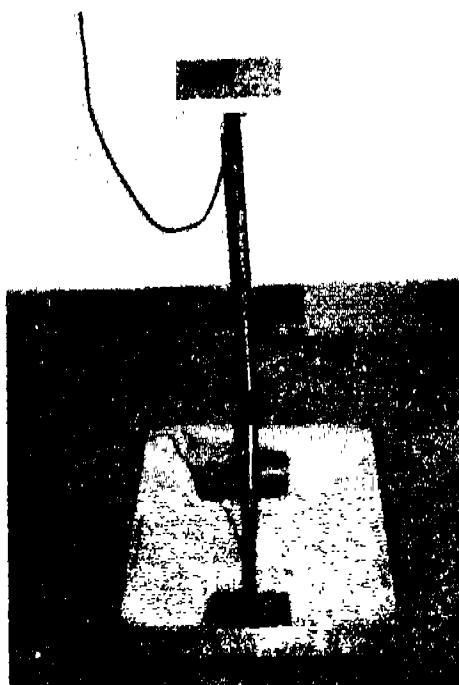
पी. ए. कृष्णमूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 10th April, 2001

**S.O. 813.**—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-section (7) of Section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the Model of the non-automatic, weighing instrument (Platform type) belonging to medium accuracy (accuracy class III) of "WT-P-201" series with brand name "WEITEK" (herein referred to as the model) manufactured by M/s. Weitek, 71, Lakshmi Nivas, New Thipasandra, Bangalore-560075 and which is assigned the approval mark IND/09/2000/239;

The said model (see figure given) is non-automatic weighing instrument (Platform type). The maximum capacity is 150kg and minimum capacity of 1kg. The value of verification scale interval (e) is 50g. It has a tare device with a 100 percent subtractive retained tare effect. The load receptor is of rectangular section of side 550 x 450 mm. The light emitting diode (LED) display indicates the weighing result. The instrument operates on 230 volts and 50-Hertz alternate current power supply;



Further, in exercise of the powers conferred by sub-section (12) of section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity upto 50kg and with number of verification scale interval (n) in the range 100 to 10,000 for 'e' value 100mg to 2g and with number of verification scale interval (n) in the range 500 to 10,000 for 'e' value of 5g or more with 'e' value of  $1 \times 10^k$ ,  $2 \times 10^k$ , and  $5 \times 10^k$ , k being a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the approved model has been manufactured.

[F. No. W.M.-21(128)/2000]

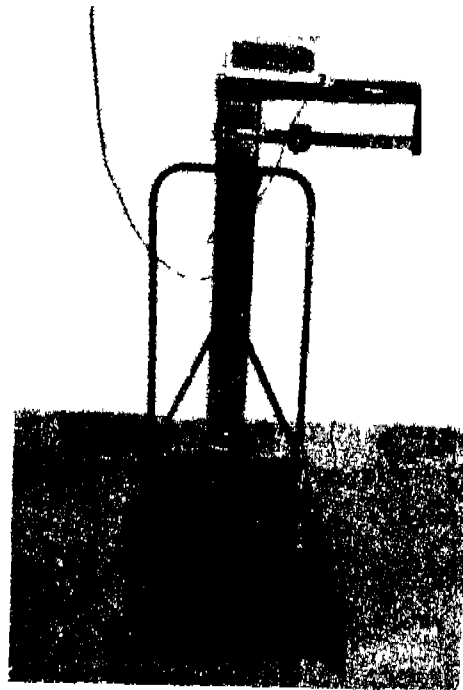
P A KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 10 अप्रैल, 2001

का. आ. 814.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (आकृति नीचे दी गई है) बाट और माप मानक अधिनियम, 1973 (1976 का 60) और बाट और माप मानक (मॉडली का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधियों में भी उक्त मॉडल अपनी यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा,

अतः, अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स वेइटेक, 71 लक्ष्मी निवास, न्यू थिपासांद्रा, बंगलौर-560075 द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग III) वाले "डब्ल्यू टी सी के-301" शृंखला के अस्वचालित तोलन उपकरण (प्लेटफार्म प्रकार का) के मॉडल का, जिसके ब्रांड का नाम "वेइटेक" है (जिसे इसमें इसके पश्चात् मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2000/240 समन्वेषित किया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है,

यह मॉडल (आकृति देखें) (प्लेटफार्म प्रकार का) अस्वचालित तोलन उपकरण है। इसकी अधिकतम क्षमता 300 कि ग्रा और न्यूनतम क्षमता 2 कि ग्रा है। सत्यापन मापमान (ई) का मान 100 ग्राम है। इसमें एक आद्येतुलन युक्त है जिसका शत प्रतिशत व्यवकलनात्मक धारित आद्येतुलन प्रभाव है। भारग्राही आयताकार खंड का है जिसकी भुजाएं 630 × 400 मि मो है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्टज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है,



और, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि मॉडल के इस अनुमोदन प्रमाणपत्र के अन्तर्गत, उसी शृंखला के उसी मेक, यथार्थता और कार्यपालन वाले ऐसे तोलन उपकरण भी होंगे, जिनकी अधिकतम क्षमता 50 किलोग्राम तक है और जिनका विनिर्माण उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन और उसी सामग्री से किया जाता है जिससे अनुमोदित मॉडल का विनिर्माण किया गया है, और जिनके सत्यापन मापमान अंतराल (एन) की संख्या 100 मि ग्रा से 2 ग्रा तथा "ई" मान के लिए 100 से 10,000 की रेंज में और सत्यापन मापमान अंतराल (एन) की संख्या 5 ग्राम या अधिक "ई" मान के लिए 500 से 10,000 की रेंज में है तथा जिनका "ई" मान  $1 \times 10^*$ ,  $2 \times 10^*$  और  $5 \times 10^*$  है जिसमें के घनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य है।

[ फा म डब्ल्यू एम -21(128)/2000 ]

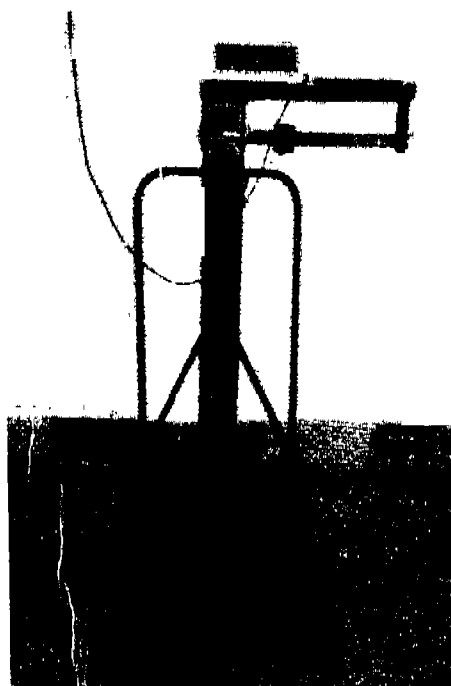
पी ए कृष्णमूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 10th April, 2001

**S.O. 814.**—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-section (7) of section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the Model of the non-automatic weighing instrument (Platform type) belonging to medium accuracy (accuracy class III) of "WT-CK-301" series with brand name "WEITEK" (hereinafter referred to as the model) manufactured by M/s. Weitek, 71, Lakshmi Nivas, New Thipasandra, Bangalore-560075 and which is assigned the approval mark IND/09/2000/240;

The said model (see figure below) is non-automatic weighing instrument (Platform type). The maximum capacity is 300 kg and minimum capacity of 2kg. The value of verification scale interval (e) is 100g. It has a tare device with a 100 percent subtractive retained tare effect. The load receptor is of rectangular section of side 630 × 400 mm. The light emitting diode (LED) display indicates the weighing result. The instrument operates on 230 volts, 50-Hertz alternate current power supply;



Further, in exercise of the powers conferred by sub-section (12) of section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity upto 50kg. and with number of verification scale interval (n) in the range 100 to 10,000 for 'e' value 100 mg to 2g and with number of verification scale interval (n) in the range 500 to 10,000 for 'e' value of 5g or more with 'e' value of  $1 \times 10^k$ ,  $2 \times 10^k$  and  $5 \times 10^k$ , k being a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the approved model has been manufactured.

[F No W M -21(128)/2000]

P. A. KRISHNAMOORTHY, Director, Legal Metrology

## पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 19 अप्रैल, 2001

क्रा. आ. 815.— केन्द्रीय सरकार, ने पेट्रोलियम और खनिज पाइपलाइन ( भूमि में उपयोग के अधिकार का अर्जन ) अधिनियम, 1962 (1962 का 50) की धारा 2 के खण्ड (क) के अनुसरण में, भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मन्त्रालय की अधिसूचना सं० का० आ० 2949 तारीख 10 अक्टूबर 1996 द्वारा श्री उपेन्द्र नाथ शर्मा उपकलक्टर मध्य प्रदेश सरकार, को, मैसर्स गैस अथॉरिटी ऑफ इंडिया लिमिटेड (गेल) द्वारा मध्य प्रदेश राज्य में पाइपलाइन बिछाने के लिए उक्त अधिनियम के अधीन सक्षम प्राधिकारी के कृत्यों का पालन करने के लिए नियुक्त किया था ;

और उक्त श्री उपेन्द्र नाथ शर्मा की सेवाएं मध्य प्रदेश राज्य सरकार को संप्रत्यावर्तित कर दी गई हैं ;

और उक्त श्री उपेन्द्र नाथ शर्मा की मैसर्स गैस अथॉरिटी ऑफ इंडिया लिमिटेड में प्रतिनियुक्ति 03 सितम्बर, 1998 से समाप्त हो गई है:

अतः अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 2 के खण्ड (क) के अनुसरण में, और का० आ० सं० 2949 तारीख 10 अक्टूबर, 1999 को अधिकाष्ट करते हुए नीचे दी गई अनुसूची के स्तम्भ (1) में उल्लिखित व्यक्ति को, मैसर्स गैस अथॉरिटी ऑफ इंडिया लिमिटेड द्वारा उक्त अनुसूची के स्तम्भ ( 2) में वर्णित क्षेत्र के भीतर प्राकृतिक गैस पाइपलाइन बिछाएं जाने के लिए उक्त अधिनियम के अधिनियम के अधीन सक्षम प्राधिकारी के कृत्यों का पालन करने के लिए प्राधिकृत करती है।

### अनुसूची

व्यक्ति का नाम और पता	अधिकारिता का क्षेत्र
1	2
उप क्लक्टर, जिला गुना, मध्य प्रदेश सरकार, (मैसर्स गैस अथॉरिटी ऑफ इंडिया लिमिटेड) गेल कम्पलैक्स, विजयपुर - 473112	मध्य प्रदेश राज्य के जिला राजगढ़, गुना, शिवपुरी, ग्वालियर, उज्जैन, मुरैना, दतिया, झबुआ, धर, रतलाम और शाहजापुर

[ सं. एल.-14014/2/01-जी. पी. ]

आई. एम. एन. प्रसाद, निदेशक

## Ministry of Petroleum and Natural Gas

New Delhi, the 19th April 2001

S.O. 815.— In pursuance of clause (a) of section 2 of the Petroleum and Minerals, Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government vide Notification of Government of India in the Ministry of Petroleum and Natural Gas No. S.O.2949 dated the 10<sup>th</sup> October, 1996, appointed Shri Upendra Nath Sharma, Dy. Collector, Government of Madhya Pradesh to perform the functions of the competent authority under the said Act for laying of Pipeline by M/s Gas Authority of India Limited (GAIL) in Madhya Pradesh State;

And, whereas, the services of the said Shri Upendra Nath Sharma have been repatriated to State Government of Madhya Pradesh;

And, whereas, the deputation of the said Shri Upendra Nath Sharma with M/s Gas Authority of India Limited has come to an end with effect from 3<sup>rd</sup> September, 1998;

Now, therefore, in pursuance of clause (a) of section 2 of the said Act and in supersession of S.O. 2949 dated 10<sup>th</sup> October, 1996, the Central Government hereby authorises the person mentioned in column (1) of the Schedule given below to perform the functions of the competent authority under the said Act for laying Pipelines by the said M/s Gas Authority of India Limited in the area mentioned in column (2) of the said Schedule.

### SCHEDULE

Name of the Person and address	Area of Jurisdiction
(1)	(2)
Dy. Collector, District Guna, Government of Madhya Pradesh (on honorarium basis with M/s Gas Authority of India Limited), GAIL Complex, Vijaypur – 473112.	Districts Rajgarh, Guna, Shivpuri, Gwalior, Ujjain, Muraina, Datia, Jhabua, Dhar, Ratnam and Shahjapur of Madhya Pradesh State.

[No -L-14014/2/01 GP]  
I S N PRASAD, Director



नई दिल्ली, 19 अप्रैल, 2001

क्रा. आ. 816— केन्द्रीय सरकार को ऐसा प्रतीत होता है कि लोकहित में यह आवश्यक है कि केरल राज्य में, भारत पेट्रोलियम कारपोरेशन लिमिटेड के इरिमपानम् संस्थापन, इरिमपानम्, कोचीन से तमिलनाडु राज्य में करूर तक मोटर स्पीट, उच्चकोटि किरोसिन तेल और उच्चवेग डीजल के परिवहन के लिए पेट्रोनेट सी.सी.के. लिमिटेड द्वारा पाइपलाइन बिछाई जानी चाहिए ;

और केन्द्रीय सरकार को यह प्रतीत होता है कि, उक्त पाइपलाइन बिछाने के प्रयोजन के लिए उस भूमि में, जिसमें उक्त पाइपलाइन बिछाए जाने का प्रस्ताव है और जिसका इस अधिसूचना से संलग्न अनुसूची में वर्णन किया गया है, उपयोग के अधिकार का अर्जन करना आवश्यक है ;

अतः अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उसमें उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

उक्त अनुसूची में वर्णित भूमि में हितबद्ध कोई व्यक्ति, उस तारीख से जिसको, भारत के राजपत्र में यथा प्रकाशित इस अधिसूचना की प्रतियाँ साधारण जनता को उपलब्ध करा दी जाती हैं, इक्कीस दिन के भीतर, भूमि में उपयोग के अधिकार का अर्जन या भूमि के नीचे पाइपलाइन बिछाने के संबंध में लिखित रूप में अप्पे, श्री ए. टी. जेम्स, सक्षम प्राधिकारी (केरल), कोचीन—कोयम्बतूर—करूर पाइपलाइन परियोजना, गोल्डन प्लाजा एनेक्सी, चित्तूर रोड, कोचीन—18, केरल राज्य, पिन—682018 को कर सकेगा।

### अनुसूची

राज्य - केरल

जिला - एरनाकुलम

तालुका - कनयन्नूर

गाँव	सर्वेक्षण संख्या	क्षेत्र		
		हेक्टेर	आरे	वर्गमीटर
(1)	(2)	(3)	(4)	(5)
1) तिरुवाक्कुलम	27/1	0	10	00
((खण्ड सं० - 10)	31	0	10	00
तालुका - परावूर				
2) कडुंगल्लूर	5/2	0	05	00
	8/1	0	15	00

[सं. आर.-31015/4/2001-ओ आर-II]

हरीश कुमार, अवर सचिव

New Delhi, the 19th April, 2001

S. O. 816.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of motor spirit, superior kerosene oil and high speed diesel from Irimpanam installation of Bharat Petroleum Corporation Limited, Irimpanam, Cochin in the State of Kerala to Karur in the State of Tamil Nadu, pipeline should be laid by the Petronet CCK Limited;

And whereas, It appears to the Central Government that for the purpose of laying the said pipeline, it is necessary to acquire the right of user in the land under which the said such pipeline is proposed to be laid, and which is described in the Schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person interested in the land described in the said Schedule may, within twenty-one days from the date on which the copies of this notification, as published in the Gazette of India are made available to the general public, object in writing to the acquisition of the right of user therein or laying of the pipeline under the land to Sri. A.T.James, Competent Authority (Kerala), Cochin-Coimbatore-Karur Pipeline Project, Golden Plaza Annexe, Chittoor Road, Cochin – 18, Kerala State, Pin – 682 018.

## Schedule

State: Kerala

District : Ernakulam

Taluk: Kanayannur

Village	Survey Numbers	Area (Approx.)		
		Hectares	Ares	Sq.Mtrs.
(1)	(2)	(3)	(4)	(5)
1) Thiruvamkulam (Block No.10)	27/1	0	10	00
	31	0	10	00
Taluk : Paravur				
2) Kadungallur	5/2	0	05	00
	8/1	0	15	00

[No. R-31015/4/2001 OR-II]  
HARISH KUMAR, Under Secy.

नई दिल्ली, 20 अप्रैल, 2001

का. आ. 817—केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50), (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 3 की उप-धारा (1) के अधीन जारी की गई, भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का० आ० 2434, तारीख 8 नवम्बर, 2000 द्वारा, तमिलनाडु राज्य में चेन्नई से तिरुच्चिरापल्ली होकर मदुराई तक पेट्रोलियम उत्पादों के परिवहन के लिए पेट्रोनेट सी टी एम लिमिटेड द्वारा पाइपलाइन बिछाने के प्रयोजन के लिए उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकार को अर्जित करने के अपने आशय की घोषणा की थी ;

और उक्त अधिसूचना की प्रतियाँ जनता को तारीख 17.11.2000 को उपलब्ध करा दी गई थीं ;

और उक्त अधिनियम की धारा 6 की उप-धारा (1) के अनुसरण में सक्षम प्राधिकारी ने केन्द्रीय सरकार को अपनी रिपोर्ट प्रस्तुत कर दी है;

और केन्द्रीय सरकार का, उक्त रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकार का अर्जन किया जाना चाहिए ;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट उक्त भूमि में पाइपलाइन बिछाने के लिए उपयोग का अधिकार अर्जित किया जाता है ।

और केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उप-धारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है कि उक्त भूमि के उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख से केन्द्रीय सरकार में निहित होने की बजाय सभी विल्लंगमों से मुक्त पेट्रोनेट सी टी एम लिमिटेड में निहित होगा।

अनुसूचा

तालूका : तिरुवल्लूर	जिला : तिरुवल्लूर		राज्य : तमिलनाडु		
गाँव का नाम	श्रृंखला सं०	उप-खण्ड सं०	क्षेत्रफल		
			हेक्टर	एयर	वर्ग मीटर
1	2	3	4	5	6
सं० 41 कांडुवालि	257	-	0	01	92
	264	6	0	04	95
	265	-	0	08	64
	266	-	0	11	00
	267	-	0	07	83
	138	1	0	00	62
	141	2	0	02	48
	141	3	0	17	47
	137	1	0	04	14
	137	2	0	12	06
	136	4	0	03	24
	206	1	0	17	43
सं० 85 पुलियूर	226	1	0	19	44
	226	5	0	11	40
	226	6क	0	04	54
	226	6ख	0	09	00
	226	7	0	01	72
	229	2	0	06	24

1	2	3	4	5	6
सं० 87 वेपम्बट्टु	43	-	0	13	26
	42	-	0	00	40
	49	4	0	00	40
	39	1	0	11	82
	39	2	0	03	44
	52	-	0	01	07
	53	1क	0	23	48
	36	1	0	16	80
	36	2क	0	12	23
	23	1	0	01	98
	23	2क	0	05	61
	23	2ख	0	03	10
	24	1	0	00	40
	16	-	0	01	02
	17	-	0	02	05
	19	1	0	02	10
	18	1	0	00	84
	12	1ग	0	04	80
सं० 92 शेव्वापेट्टै	114	1क1	0	37	04
	116	3	0	01	40
	116	1ख	0	03	50

[सं. आर.-31015/15/2000-ओ आर-1]

एस. चन्द्रशेखर, अवर सचिव

New Delhi, the 20th April, 2001

**S. O. 817.**—Whereas by a notification of the Government of India in the Ministry of Petroleum and Natural Gas number S.O. 2434 dated the 8<sup>th</sup> November, 2000, issued under sub section (1) of section 3 of the Petroleum and Minerals pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), (hereinafter referred to as the said Act) the Central Government declared its intention to acquire the right of user in the land specified in the Schedule appended to that notification for the purpose of laying pipeline for the transport of petroleum products from Chennai to Madurai via Tiruchirapalli in the State of Tamil Nadu by Petronet CILM Limited.

And whereas, copies of the said notification were made available to the public on 17<sup>th</sup> November, 2000.

And whereas, the Competent Authority in pursuance of sub-section (1) of section 6 of the said Act has submitted his report to the Central Government;

And whereas, the Central Government, after considering the said report is satisfied that the right of user in the land specified in the Schedule appended to this notification should be acquired;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 6 of the said Act, the Central Government hereby declares that the right of user in the said land specified in the Schedule appended to this notification is hereby acquired for laying the pipeline;

And further, in exercise of the powers conferred by sub-section (4) of section 6 of the said Act, the Central Government hereby directs that the right of user in the said land shall instead of vesting in the Central Government, vest from the date of publication of this declaration in the Petronet CTM Limited free from all encumbrances.

#### SCHEDULE

Taluk : Tiruvallur		District : Tiruvallur		State : Tamil Nadu	
Name of the Village	Survey no	Sub-Division no	Area		
			Hectare	Are	Sq mtr
1	2	3	4	5	6
No.41 KODUVALI	257	-	0	01	92
	264	6	0	04	95
	265	-	0	08	64
	266	-	0	11	00
	267	-	0	07	83
	138	1	0	00	62
	141	2	0	02	48
	141	3	0	17	47
	137	1	0	04	14
	137	2	0	12	06
	136	4	0	03	24
No.85 PULIYUR	206	1	0	17	43
	226	1	0	19	44
	226	5	0	11	40
	226	6A	0	04	54
	226	6B	0	09	00
	226	7	0	01	72
	229	2	0	06	24
No.87 VEPPAMBATTU	43	-	0	13	26
	42	-	0	00	40
	49	4	0	00	40
	39	1	0	11	82
	39	2	0	03	44
	52	-	0	01	07
	53	1A	0	23	48
	36	1	0	16	80
	36	2A	0	12	23
	23	1	0	01	98
	23	2A	0	05	61
	23	2B	0	03	10
	24	1	0	00	40

1	2	3	4	5	6
No. 87 VEPPAMBATTU (Contd.)	16	-	0	01	02
	17	-	0	02	05
	19	1	0	02	10
	18	1	0	00	84
	12	1C	0	04	80
No. 92 SEVVAPETTAI	114	1A1	0	37	04
	116	3	0	01	40
	116	1B	0	03	50

[No.R-31015/15/2000 OR-I]

S. CHANDRA SEKHAR, Under Secy.

नई दिल्ली, 20 अप्रैल, 2001

का. आ. 818—केन्द्रीय सरकार को ऐसा प्रतीत होता है कि लोकहित में यह आवश्यक है कि तमिलनाडु राज्य में चेन्नई से मदुराई तक पेट्रोलियम उत्पादों के परिवहन के लिए, इंडियन ऑयल कारपोरेशन लिमिटेड द्वारा चेन्नई-तिरुच्चि-मदुराई पाइपलाइन परियोजना को कार्यान्वित करने के लिए, पेट्रोनेट सी टी एम लिमिटेड की ओर से पाइपलाइन बिछाई जाए ;

और केन्द्रीय सरकार को ऐसा प्रतीत होता है कि उक्त पाइपलाइन बिछाने के प्रयोजन के लिए वह भूमि जिसके नीचे उक्त पाइपलाइन बिछाई जाने का प्रस्ताव है और जो इस अधिसूचना से संलग्न अनुसूची में वर्णित भूमि है में उपयोग के अधिकार का अर्जन करना आवश्यक है ;

अतः अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उनमें उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है ।

उक्त अनुसूची में वर्णित भूमि में हितबद्ध कोई व्यक्ति उस तारीख से, जिसको भारत के राजपत्र में यथा प्रकाशित इस अधिसूचना की प्रतियाँ साधारण जनता को उपलब्ध करा दी जाती है, इक्कीस दिन के भीतर, भूमि में उपयोग के अधिकार का अर्जन या भूमि के नीचे पाइपलाइन बिछाने के प्रति लिखित में आक्षेप श्री आर वज्रवेलू, सक्षम प्राधिकारी, पेट्रोनेट सी टी एम लिमिटेड, चेन्नई-तिरुच्चि-मदुराई उत्पाद पाइपलाइन परियोजना, 4/2 क्राफोर्ड कॉलोनी, तिरुचिरापल्ली 620 012 को कर सकेगा ।

## अनुसूची

तालूका : तिरुवल्लूर	जिला : तिरुवल्लूर		राज्य : तमिलनाडु		
गाँव का नाम	सर्वेक्षण सं०	उप-खण्ड सं०	क्षेत्रफल		
			हेक्टर	एयर	वर्ग मीटर
1	2	3	4	5	6
स० 87 वेप्पम्बट्टु	22	-	0	11	25
	19	2	0	06	60
	20	2ख	0	01	30
	20	2क1क3ख	0	03	60
	20	2क1क3क	0	04	20

[सं. आर.-25011/18/2000-ओ आर-1]

एस. चन्द्रशेखर, अवर सचिव

New Delhi, the 20th April, 2001

S.O. 818.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum products from Chennai to Madurai in the State of Tamil Nadu, a pipeline should be laid by the Indian Oil Corporation Limited for implementing the Chennai-Trichy-Madurai Pipeline Project on behalf of Petronet CTM Limited;

And whereas, it appears to the Central Government that for the purpose of laying the said pipeline, it is necessary to acquire the right of user in the land under which the said pipeline is proposed to be laid, and which is described in the Schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person interested in the land described in the said Schedule may, within twenty-one days from the date on which the copies of this notification, as published in the Gazette of India, are made available to the general public, object in writing to the acquisition of the right of user therein or laying of the pipeline under the land to Shri. R. Vajravelu, Competent Authority, Petronet CTM Limited, Chennai-Trichy-Madurai Product Pipeline Project, 4/2, Crawford Colony, Tiruchirapalli-620 012.

#### SCHEDULE

Taluk : Tiruvallur		District : Tiruvallur		State : Tamil Nadu		
Name of the Village	Survey no.	Sub-Division no.	Area			
			Hectare	Are	Sq.mtr.	
1	2	3	4	5	6	
No.87 VEPPAMBATTU	22	-	0	11	25	
	19	2	0	06	60	
	20	2B	0	01	30	
	20	2A1A3B	0	03	60	
	20	2A1A3A	0	04	20	

[No.R-31015/18/2000 OR-I]

S. CHANDRA SEKHAR, Under Secy.

## शहरी विकास और गरीबी उपशमन मंत्रालय

दिल्ली प्रभाग

अधिसूचना

नई दिल्ली, 12 अप्रैल, 2001

क्र. आ. 819—दिल्ली विकास अधिनियम 1957 (1957 का 61) के खण्ड-3 के उपखण्ड 3 की धारा (छ) के साथ पठित उप खण्ड (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार एतद्वारा श्री पो. के. प्रधान, संयुक्त सचिव (दिल्ली और भूमि), शहरी विकास एवं गरीबी उपशमन मंत्रालय को दिल्ली विकास प्राधिकरण का सदस्य नामित करती है और भारत सरकार स्वास्थ्य मंत्रालय की सं० 12-173/57-एलएसजी दिनांक 30.12.1957 की अधिसूचना में निम्नलिखित संशोधन करती है, नामतः

“मद सं० 9 में, प्रविष्टि श्री एस. बनर्जी, संयुक्त सचिव (यू.डी.), शहरी विकास एवं गरीबी उपशमन मंत्रालय के बदले निम्नलिखित प्रविष्टि प्रतिस्थापित की जाएगी, नामतः श्री पो. के. प्रधान, संयुक्त सचिव (दिल्ली एवं भूमि), शहरी विकास एवं गरीबी उपशमन मंत्रालय” ।

[सं. के.-11011/20/97-डीडीआईए]

वी. के. मिश्रा, अवर सचिव

Ministry of Urban Development & Poverty Alleviation  
(Delhi Division)

## NOTIFICATION

New Delhi, the 12th April, 2001

S. O. 819.—In exercise of the powers conferred by sub-section (1), read with clause (g) of sub-section (3) of Section 3 of the Delhi Development Act, 1957 (61 of 1957), the Central Government hereby nominates Shri P.K. Pradhan, Joint Secretary (D&L), Ministry of Urban Development & Poverty Alleviation as Member of Delhi Development Authority vice Shri S. Banerjee, Joint Secretary (UD) and makes the following amendments in the notification of the Government of India, Ministry of Health No.12-173/57-LSG dated 30.12.1957, namely:

“In item No.9, for the entry “Shri S. Banerjee, Joint Secretary (UD), Ministry of Urban Development & Poverty Alleviation”, the following entry shall be substituted, namely, “Shri P.K. Pradhan, Joint Secretary (Delhi & Lands), Ministry of Urban Development & Poverty Alleviation”.

No.K-11011/20/97-DDIA]  
V. K. MISHRA, Under Secy.



श्री मन्त्रालय

नई दिल्ली, 22 मार्च, 2001

का प्रा 820—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसूची में, केन्द्रीय सरकार द्वारा वेतन के प्रश्न पर केवल निोजकों और उद्योगिकों के बीच, अनुसूची में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, पटना के पचास को प्राप्ति करनी है, जो केन्द्रीय सरकार को 21-3-2001 को प्राप्त हुआ था।

[I.L.O.-12012/142/98-आई.आर. (बी-II)]

सी. गंगधरन, अवर सचिव

## MINISTRY OF LABOUR

New Delhi, the 22nd March, 2001

S.O. 820.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Patna as shown in the annexure in the Industrial Dispute between the employers in relation to the management of UCO Bank and their workman, which was received by the Central Government on 21-3-2001.

[No. L-12012/142/98-IR(B-II)]

C. GANGADHARAN, Under Secy.

## ANNEXURE

## BEFORE THE PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, PATNA

Reference No. 2(c) of 1999

Management of UCO Bank, Patna and their workmen represented by Bihar State Commercial Bank Employees Association, Patna.

For the Management : Sri Chandra Bhushan Prasad, Advocate.

For the workmen : Sri Devi Kant Jha, Advocate.  
Sri Birendra Kumar Jha, Advocate.

## PRESENT :

Sri S. K. Mishra, Presiding Officer, Industrial Tribunal, Patna.

## AWARD

The 12th March, 2001

The Central Government in exercise of powers u/s 10(1) (d) of the Industrial Disputes Act, 1947 by notification No. I-12012/142/98/IR(B-II) dated 25-2-1999/4-3-1999 have referred the following industrial dispute between the Management of UCO Bank, Patna and their workmen represented by Bihar State Commercial Bank Employees Association (hereinafter to be referred as the Association) to this Tribunal for adjudication :—

“Whether Shri I Allan Kumar and 19 others (I list enclosed with the notification) have worked for more than 240 days with the Management of UCO Bank. If so, whether the action of the Management of UCO Bank in terminating their services is justified? If not to what relief the workmen are entitled to?”

2. On receipt of the notification, notice was issued upon the Association and it has appeared and has filed a written statement of claim. Thereafter a copy of the written statement was furnished to the Management and the Management has also appeared and has filed written statement in reply.

3. The case of the concerned workmen as has been made out in the written statement filed on behalf of them in brief is that all of them were engaged/worked as casual workers on daily rate basis for several years and have completed 1064 GI/2001—7

more than 240 days of service in a year continuously. In the year 1997 on different dates their services were terminated illegally without complying the mandatory provisions of section 25-F of the I.D. Act. The individual dates of joining and the dates of termination of their services and also the amounts of wages received by them from time to time have been mentioned in detail in the written statement. It is said that they were given very meagre wages at the initial stages of their employment, however in course of time wages were enhanced from time to time. All the workmen were doing the jobs of subordinate staff against permanent vacancies. The workmen performed the duties such as cleaning of Tables, keeping the ledgers on the counter from the Almuahs and keeping them back in the Almuahs after the day's work, posting of Daks in the post office, carrying daks of the Bank for delivery to different Establishments, stitching of vouchers, sweeping of floors and also serving drinking water to the staff and customers. The further case of the Association is that they had been engaged by the Bank in different Branches orally and they were also terminated from service orally without notice or pay in lieu of notice and retrenchment compensation. All of them worked for full days work i.e. eight hours per day. They discharged their duties with entire satisfaction of all superiors and they were very much hopeful of getting absorbed permanently in the Bank Service. The Bank Management violated their own Bank Service. The Bank Management violated their own all casual workers would be absorbed permanently in the Bank service who have worked for full days work and have been discharging the normal duties in the Bank in subordinate cadre as a casual workers for a period for 240 days or more with or without interruption during the period of three years immediately preceding the settlement dated 12-10-1989.

4. The further case of the Association is that the cases of the concerned workmen with some other workmen were taken up with the Bank Management for absorption and regularisation but the Bank Management failed to concede the demand of the Association. Thereafter the Association had raised industrial dispute vide its letter dated 24-4-1997 before the A.L.C.(C), Patna in the matters of regularisation of workmen numbering 74 including the workmen under Reference. Thereafter notices were issued upon the Bank Management and also upon the Association by the A.L.C. for discussion/conciliation in the matter under the provisions of the I.D. Act. It is said that while the conciliation proceeding was in progress before the A.L.C., the Management retrenched the concerned workmen from their services. The Association immediately on retrenchment raised the matter before the A.L.C. vide its letter dated 31-12-1997 and 3-2-1998 for his intervention in the matter of reinstatement/regularisation. The A.L.C. intervened into the matter, and held investigation and proceeding on various dates but due to the attitude of the Bank Management the Management ended in failure even though the Management in the most of the cases of the workmen admitted the period of 240 days in service in a year. It has been pointed out that although the concerned workmen have put in several years of working the Bank Management capriciously showed lesser number of days, years of working of workmen. After failure of the conciliation proceeding the Conciliation Officer (A.L.C.) submitted his failure report through his letter dated 15-6-1998 to the Government of India, Ministry of Labour, New Delhi. The Government of India after subjective opinion of the matter have now referred the matter for adjudication before this Tribunal. The termination made by the Bank Management on different dates is retrenchment within the meaning section 2(cc) of the I.D. Act. The Bank Management indulged the policy of unfair labour practice in not regularising the services of the workmen and intend in terminating their services in violation of the protective provision of the I.D. Act. According to the Association the action of the Management in retrenching service of the workmen is illegal, arbitrary, mala-fide and unjust. In the legal sense those with records of 240 days on rolls are on a class who have right under the I.D. Act and they are as good as having been acquired permanency. Thus according to the Association the workmen are entitled to reinstatement and also regularisation with full back wages with interest.

5. It may here be noted that the Association is not pressing the claims of four workmen out of 20 namely Sri Gorakh Sao, Sri Bhole Pd Yadav, Sri Satyendra Narayan and

Shanker Kumar. In para 3 of the written statement of the Association itself it is stated that two of the workmen namely Sri Gorakh Suro and Bhola Pd. Yadav are not interested in pursuing their cases in this Tribunal. Further the Management brought to the notice of this Tribunal the fact that workman Shanker Kumar has filed a writ application bearing C.W.J.C. No. 3600/97 before the Hon'ble Patna High Court for regularisation of his services which is still pending. The Association thereafter filed a petition in this Tribunal on 16-1-2000 admitting that the said writ application is pending before the Hon'ble Patna High Court and hence, the Association is not pressing the claim of Shanker Kumar in this Tribunal. Further the learned counsel for the Association submitted that in spite of his repeated efforts, one another workman Satyendra Narayan did not turn up for his examination as witness in this Tribunal and so it becomes apparent that this workman is also no longer interested in this Reference case. In view of the plea taken by the Association, the consideration for the aforesaid four workmen is excluded in this Reference case and the present Award will be confined to the remaining 16 workmen in this Reference.

6. The case of the Management in brief is that the UCO Bank being a statutory authority is a State under Article 12 of the Constitution of India as such it is obliged to ensure unstinted compliance of Articles 14 and 16 of the Constitution of India. According to the Management the Labour Laws which are inconsistent with part III of the Constitution shall to the extent of such inconsistency be void in view of the provisions of Article 13 of the Constitution. In the present case an attempt is being made to enter into service in Government of India undertaking through back door method in the face of the aforesaid constitutional prohibition and pronouncement of the Hon'ble Apex Court. According to the Management the engagement of the concerned workman was itself a nullity being made against the non existence of post and without following the procedure of recruitment, without any advertisement and selection. It is pointed out that the workmen have not disclosed as to who and how they were engaged. The daily rated employees were engaged by the authority who was neither competent nor had ever been authorised by the competent authority to engage. The concerned workmen did not complete work for 240 days during the preceding three years from 12-10-1989. On that day a settlement was made between the Management and the unions of various employees in which some criterias were made for absorption. In the light of said settlement dated 12-10-1989 the Bank issued strict instruction on 31-3-1990 not to engage or to continue engagement for any contingent services of the Bank of any person. It was also mentioned in that circular that the Branch Manager violating the said instruction would be personally held responsible for causing financial losses to the Bank in regard to payment of emoluments and other expenses. The working of the Bank by over staffing, apart from loss on account of business, amounting to Rs. 1436 crores as on 31-3-1996 approximately came up for review on 28-2-1997 for which the Finance Minister of Government of India visited Calcutta and held discussions with the Directors of the Bank and also Representatives of the recognised unions/Associations. At that very meeting it was decided that the Bank should take all measures to curb expenditure. Accordingly circular orders were issued on 29-3-1997 and 28-4-1999 by the Bank to the effect that all Branch Offices must immediately disengage daily casual employees other than those who stand empanelled in terms of the settlement of 1989 failing which the Manager concerned would be responsible and accountable. It has been further stated by the Management that the engagement being on non-existing vacancies on daily wages their services were liable to be terminated at any time when their services were not required. No recruitment procedure was followed before making engagement. No post of water boy existed in the Bank. The concerned workmen were engaged by the Authority who was neither competent nor authorised to engage such workmen. The engagement was not in conformity with the settlement made on 12-10-1989. The workmen were not found fulfilling the eligibility criterias when the Bank in agreement with the unions took up the matter for empanelment of daily wages workers. The Management objects to the plea for regularisation since it would amount to back door entry in Bank services. The concerned workmen did not

complete 240 days during the preceding three years from 12-10-1989. With regard to the facts stated in paragraph (i) to (xviii) in the written statement of the Association, it is stated by the Management that there are the matters of record and hence, no comment was being given. Similar is the reply of the Management with regard to the facts stated in paragraphs 8 and 9 of the written statement of the Association which relate to the working for eight hours in a day and working to the satisfaction of authorities concerned. It is denied that the Management violated their own circular dated 19-10-1989. As regard to the statement made in para 11 to 23 in the written statement of the Association the same are not specifically denied. According to the Management these facts are to be considered by this Tribunal.

7. A rejoinder to the written statement filed on behalf of the Management has also been filed on behalf of the workmen. In the rejoinder the facts as have been made out in their written statement have been reiterated and it is stated that the concerned workmen were never engaged as a Water Boys. There was no post of Water Boy under the Bank. They had been engaged as a casual workers for performing the duties of employees in subordinate cadre.

8. The following issues arise for determination;—

(i) Whether Sri Lallan Kumar and 15 others worked for more than 240 days with the Management of UCO Bank and if so, whether the action of the Management of UCO Bank terminating their services was justified?

(ii) If not to what relief the workmen are entitled to?

#### FINDINGS

9. As both the issues are inter connected they are taken up together for consideration for the sake of convenience.

10. The case of the workmen that they had worked 240 days in 12 Calendar months of a year before their termination has not specifically been denied by the Management in their written statement. According to the Management they were never appointed on permanent posts rather their appointments were purely on contingent nature. However the claim of the workmen that they had also completed 240 days during the preceding three years from 12-9-1989 has been denied. According to the Management their services could not be regularised in terms of the agreement with the unions dated 28-12-1989 since they did not fulfil the eligibility criteria. Admittedly there was an agreement between several unions of the workers with the Management of the UCO Bank on 12-10-1989, according to which all the workers who had been engaged as casual workers for full day's work and who had been discharging any of the normal duties in the Bank in the subordinate cadre as casual workers for a period of 240 days or more with or without interruption during the period of three years immediately preceding the settlement would be absorbed as permanent employees in the subordinate cadre. Ext. W51 is the xerox copy of the circular of the Bank dated 19-10-1989 which was issued in pursuance of the said agreement. The case of the Management is that in the light of the settlement dated 12-10-1989 the Bank issued strict instruction on 31-3-1990 not to engage or continue to engage any casual worker. The circular in this respect dated 31-3-1990 has been enclosed with the written statement. It was also made clear in the circular that if such engagement were made by the Branch Managers or head office such Branch Managers or head office would personally be accountable for such lapses. The said prohibition to engage any casual worker or to continue the engagement of such casual worker was reiterated in subsequent letters of the Bank dated 29-3-1997 and 20-4-1997. The instruction to disengage illegally engaged casual workers was repeated in these letters. Thus according to the Management the services of the concerned workmen were terminated some time in the year 1997 as per the instructions contained in the aforesaid letters of the Bank (Exts. M and M/1). According to the Bank as they had not completed 240 days in terms of the agreement and as they had been engaged in spite of prohibition by the Bank illegally their services were terminated.

11. In the written statement the Management has contended that the UCO Bank being a Government of India Undertaking it is a State under Article 12 of the Constitution of

India and is obliged to ensure fairness in its actions, but while admitting that the concerned workman had worked as casual workers, the Management has not assisted the Tribunal in fair manner as to the length of period of their work. Admittedly the engagement of the concerned workmen was made orally and they were also disengaged from service orally and hence they are not expected to be in possession of relevant records or documents to show their length of service. Yet besides their oral evidence they have filed zerox copies of some documents in support of their working and also the length of working. Most of such documents have been admitted into evidence on formal proof having been waived by the Management. In this connection I intend to mention the established rule of law that materials in support of evidence are also to be considered by an Industrial Tribunal. The Tribunal, not being a court, is to weigh probabilities instead of requiring proof (1996)(9) S.C. cases page 432. It may further be noted that on 20-4-2000 a petition was filed on behalf of the workmen requiring the Management to file Attendance registers and other relevant documents relating to their working. On the same day i.e. 20-4-2000 this Tribunal passed an order directing the Management to produce those documents but those documents have not been produced by the Management. Instead a reply was filed after a lapse of five months i.e. on 19-7-2000 stating therein that neither the Attendance Register nor any attendance record is maintained by the Bank because the casual workers get their payments through vouchers according to the work done by them. But the Management must be in possession of those payment vouchers and must be maintaining some payment records. The Management has not even filed those documents. As we have seen earlier, the Management in their written statement at page 9 and 10 while replying to paras I to XVIII, and para 8 and 9 of the written statement of the workmen, gave said that "these are matters of record and hence no comment is being given". But the Management have not filed even those records.

12. The Management has examined only one witness, Sri B. Shrivastava, Chief Officer personnel in the Zonal Office of the Constitution of India as such it is obliged to ensure have no power to engage casual labourers without obtaining permission from Divisional Office or Zonal Office. No such permission was obtained while engaging the present workmen. The rules relating to procedure for recruitment was also not followed. According to this witness since the Bank is running in losses the Reserve Bank sent instruction for not making fresh appointment. In March and again in April, 1997 letters were issued from the Zonal Office asking the Branch Managers to disengage services of those casual workmen who had been unauthorisedly engaged. In cross-examination he had stated that he does not know the detail working days of these workmen. He has further admitted that there are no recruitment rules for engagement of casual labourers.

13. All the concerned 16 workmen have been examined in this case. All of them have said that they were performing the duties of regular peons against permanent posts. Besides these workmen one another workman namely Shankar Kumar has also been examined. As I have mentioned earlier the claim of this workman Shankar Kumar has not been pressed in this Reference case, since a writ petition filed by him for the similar relief is pending in the Hon'ble Patna High Court.

14. W.W. 1 Lallan Prasad has said that he had worked from 4-4-1985 till 27-2-1997. There was some break in his service prior to 5-11-1988 but he continuously worked from 5-11-1988 to 27-2-1997. He had applied for regularisation of his service in since he had worked more than 240 days preceding the year 1989. While he was in service he used to go to the Reserve Bank for depositing cash. Gate pass from Reserve Bank used to be granted to him. He had joined his service in the Zonal Office but later he was transferred to Patna Main Branch. Ext. W is the zerox copy of the letter from the Chief Manager, Zonal office, Patna to the effect that this workman was transferred on 19-9-1995. Further it has been mentioned in this letter that by earlier letter dated 10-4-1997 he had informed the Head Office regarding the position of the casual workers of his Branch, but the Management has not filed the earlier letter which would have shown length of working of this workman while he was posted in the Zonal office. Eight sheets are the enclosures of Ext. W, the formal proof of which has been waived by the Management. The enclosure shows the details of days the workmen

performed his duties in the Patna main Branch from 19-9-1995 to 25-4-1997. This chart shows that he had worked more than 240 days in the year 1995 to 1997 while posted in the Patna main Branch. One another annexure in the zerox copy of the application of the workman dated 30-11-1989 which he had filed for regularisation of his service. In this application also he had mentioned that though he had joined as casual worker on 4-4-1985, he worked effectively from 5-11-1988 as a Peon. Some Gate passes of the Reserve Bank of India for the year 1995-96 have also been enclosed. Zerox copy of the Affidavit sworn by this workman on 26-4-1989 has also been annexed with Ext. W. From the above I find that the workman has been able to prove that not only he worked 240 days in 12 Calendar months immediately preceding his termination but also he had worked more than 240 days before the date of settlement dated 12-10-1989.

15. W.W. 2 Basant Ram Rabidas in his evidence has said that he worked from 10-9-1985 till 15-4-1997. He has stated that he worked 328 days from 10-9-1985 to 15-4-1997. Further he has stated that the Branch Manager of the Bank had written to the Officer Incharge regarding his completion of service more than 240 days. Ext. W/1 and W/2 are documents which relate to Satyendra Narayan Singh and Shaokar Kumar whose claim is not being pressed in this case. Ext. W/3 is a letter dated 23-7-1997 from the Branch Manager, Gaya to the Zonal office in which it is mentioned that the services of casual worker Basant Ram Rabidas was continued w.e.f. 15-4-1997. Ext. W/4 is the zerox copy of a letter from the Branch Manager, Gaya to the Division counter for payment of wages of this workman at the rate of Rs. 41 per day. Ext. W/5 is a letter from the Officer Incharge dated 7-5-1990 from M.G.C.E.C., Gaya UCO Bank to the Branch Manager, Gaya in response to the Divisional Manager's office letter dated 2-3-1990 enclosing the statement regarding working of the workman. The enclosure dated 18-12-1989 shows that Basant Ram Rabidas was engaged from 10-9-1985. According to this chart he worked 65 days in 1986, 223 days in 1987, 25 days in 1988 and 10 days in 1989 till 12-10-1989. Thus it shows that the workman worked total period of 328 days from 12-10-1986 till the date of settlement. This further shows that the W.W. 2 has erroneously stated that he worked 328 days till 15-4-1997. It should have been till 12-10-1989. Ext. W/6 is the zerox copy of the letter dated 18-12-1989 from the Branch Manager, Gaya to the Officer Incharge, M.G.C.E.C., Gaya stating therein that the concerned workman Basant Ram Rabidas had submitted an application mentioning that he had completed 680 days of his service at M.G.C.E.C. The Branch Manager by this letter has asked the Officer Incharge M.G.C.E.C. to give in details the work period. Ext. W/7 is the zerox copy of the letter of the Branch Manager, Basant Ram Branch to the Divisional Manager to the effect that the Branch has discontinued the services of the casual workers. It is dated 23-4-1997. The workman Basant Ram Rabidas has said that when he was in service he used to make his attendance. In spite of calling for the production of the Attendance Register, it was not produced by the Management. Further the witness has said that Ext. W/59 is the zerox copy of the Attendance Register from January, 1996 till 15-4-1997 which he has filed. This zerox copy of the Attendance Register is not very legible. Thus the workman has been able to prove that not only he worked more than 240 days immediately the date of his termination but he had also worked more than 240 days before the date of settlement.

16. W.W. 6 Jai Prakash has said that he was appointed as a peon in the year 1990. He worked upto 4-5-1997 when his services were terminated. He has said that he worked more than 240 days in the 12 calendar months preceding his removal. Ext. W/8 is a letter to the effect that the workman Sri Jai Prakash was working in the Bank since 1990 to 1993 as Water Man and that after retirement of Sri S. D. Mishra (Daftari) the workman was continued in Bank duty. He was discontinued from 3-7-1993 to 8-7-1993 and from 4-10-1994 to 17-10-1994. From 18-10-1994 this workman is regular in Bank duty till the date of his termination. It is also mentioned that the detailed information about this workman had been sent to the Divisional Office, Ranchi on 17-10-1995. The date on which the letter was written and to whom and by whom it was written are not legible in this zerox copy. Ext. W/9 is the zerox copy of the letter dated 17-10-1995 from the Manager, Baniachanj Branch. In this letter it is also mentioned that since the retirement of Sri S. D. Mishra, Jai Prakash has been working as a Peon from

1-5-1993. This letter further shows that he had worked previously as a Water Boy. He is still continuing to work as a Peon from 1-5-1993 till the date of letter with two annual breaks. Ext. W/50 is a letter from the Branch Manager, Bundaganj Branch UCO Bank to the Unit Secretary of the union giving details of working of Sri Jai Prakash. According to this letter Jai Prakash worked from 2-4-1993 till 4-5-1997, altogether 1149 days, it is also to the effect that the workman was getting Rs. 30 per day at the time of retrenchment. Ext. W/57 is another letter from the said Branch Manager detailing the rates of wages which were paid to the workman from 2-4-1993 till 3-5-1997. Thus, I find that this workman was engaged in the year 1990 i.e. after the settlement and he worked more than 240 days preceding his retrenchment.

17. W.W. 3 Bipin Kumar in his evidence has said that he was appointed on 30-11-1988 and he was removed orally on 8-4-1997. Altogether he worked as a Peon for 2425 days. He had also applied for regularisation of service on the basis of the agreement of the year 1989. He had worked for more than 240 days in 12 calendar months preceding his removal. Ext. W/10 is a certificate granted by the Manager Sarai Branch of the Bank to the effect that the workman Bipin Kumar worked 4 days in November, 1988, 27 days in December, 1988, 23 days in January, 1989, 24 days in February 1989, 25 days in the month of March, 1989, 24 days in April, 1989, 25 days in May, 1989, 26 days in June 1989, 26 days in July, 1989, 23 days in August, 1989 and 26 days in September, 1989. Thus according to the certificate the workman Bipin Kumar had completed more than 240 days before the date of settlement dated 12-10-1989. The Branch Manager has also given in detail the days Bipin Kumar worked till April, 1997 when the workman was terminated. This certificate also shows that the workman worked much more than 240 days in a year before his termination. In the certificate the rates of wages are also given which were paid to the workman from time to time. Ext. W/11 is a letter from the Branch Manager, Sarai to the Chief Officer of the Bank regarding the details of the person engaged in his Branch. Enclosure of this letter shows that first date of engagement was 30-11-1988. Ext. W/12 is a letter from the Manager, Sarai Branch to the Divisional office, Patna of UCO Bank. This letter also shows that 30-11-1988 was the first date of engagement of the workman. Thus, I find that the workman has adduced both oral and documentary evidence to prove that not only he worked 240 days in a year preceding his date of termination but he had also worked 240 days before the date of agreement.

18. W.W. 9 Sheo Prasad Thakur in his deposition has said that on 13-12-1988 he was appointed as a peon by the Branch Manager of UCO Bank Pirpainty Bazar, Bhagalpur. He worked altogether 1438 days. He was removed from service on 12-5-1997. Further he has said that he had worked a period of 240 days continuously in the initial year of his appointment. Ext. W/13 is a letter dated 19-12-1994 by the Branch Manager of Pirpainty Bazar, UCO Bank addressed to the Dy. Chief Officer (Personnel) Zonal Office, Patna. It shows that this workman was engaged on 13-12-1988. Enclosure to Ext. W/13 shows that this workman worked continuously for three years. Ext. W/56 is a certificate granted by the Branch Manager Pirpainty Branch of UCO Bank dated 16-2-2000. It shows that this workman was engaged on 13-12-1988 and he was retrenched on 12-5-1997. The workman has put in total of 1488 days of service at the Branch. It is also noted that the workman has put in more than 240 days continuous service preceding the date of his termination.

19. Though there is no specific evidence to show that the workman put in service for 240 days before the date of settlement i.e. 12-10-1989 there is over-whelming evidence to show that he was working continuously since the date of his engagement (13-12-1988) till termination. So it must be held that he also completed work of 240 days before the date of settlement. He also worked more than 240 days in 12 calendar months immediately before his retrenchment.

20. W.W. 7 Sanjay Kumar has stated that on 29-2-1989 he was appointed as a Peon in Piri Bazar Branch, Lakhisarai. His services were terminated on 9-5-1997 by the Branch Manager and till then he had worked altogether 1860 days. He had applied for regularisation of his service in the light of the agreement. Further he has said that he had worked 243 days in the year 1989. But the witness has not said that he worked 240 days before the date of agreement. Ext. W/14 is the zerox copy of the application which the workman had

submitted on 21-11-1989. According to his application he was engaged on 24-2-1989. In this application he has also given details of his work month-wise but the same is not legible. At the bottom of the application the Branch Manager has appended a certificate dated 2-12-1989 regarding the correctness of the entries made in the application. Ext. W/15 is a certificate granted by the Branch Manager to the effect that Sri Sanjay Kumar worked in the Branch as a Peon on casual basis for 18 months. He is labourious and his behaviour is good. This certificate is dated 3-9-1990. There is also one another certificate granted by the Branch Manager on 15-2-1995 to the effect that the workman had been working in the Branch since last two years on daily wage basis. Ext. W/16 is a letter by the Branch Manager to the Zonal Manager, UCO Bank showing working of 201 days as on 12-10-1989. Ext. W/17 is the statement showing that this Sanjay Kumar worked since 24-2-1989.

21. Thus, from the above oral and documentary evidence I have no hesitation to find that this workman had worked more than 240 days in 12 calendar months preceding his Termination.

22. W.W. 8 Raja Ram in his deposition has said that he was appointed on 9-7-1987 as a peon by the Branch Manager, Gundi, Saraya, UCO Bank. He worked in the Bank till 13-5-1997. Further he has said that he had worked more than 240 days in the preceding year of his termination. He wants reinstatement with full back wages. Ext. W/18 is a letter from the Divisional Manager dated 5-5-1990 addressed to the Branch Manager UCO Bank requiring the details about the working of workman Raja Ram. Ext. W/19 is a zerox copy of the letter from the Branch Manager, Gundi Branch in response to the letter of the Divisional Manager dated 5-3-1990 (Ext. W/18) furnishing information that the workman Raja Ram worked 1000 days from 12-10-1986 to 12-10-1989. This zerox copy of the letter is not very much legible. Ext. W/20 is a letter from the Divisional Manager dated 18-4-1990 asking the Branch Manager of Gundi Branch to furnish information about the workman Raja Ram. Ext. W/21 is a letter from the Branch Manager of Gundi Branch furnishing details of work done by Raja Ram in compliance to the letter of the Divisional Manager dated 18-4-1990 (Ext. W/20). It shows that the workman worked a total period of 684 days from July, 1987 to December, 1989. The Branch Manager has given the details of work month-wise. According to this statement the concerned workman Raja Ram worked more than 240 days from July, 1987 till the date of settlement. Ext. W/22 is a certificate granted by the Branch Manager, Gundi dated 9-12-1990 to the effect that Raja Ram had been working in the Branch since 9-7-1987 as no Peon had been posted at the Branch since the date of opening of the Branch. Ext. W/23 is the zerox copy of the application of Raja Ram dated 1-9-1995 for regularisation of his service. In this application he had claimed to be working since 19-5-1986. Ext. W/74 is a letter of the Branch Manager dated 2-8-1995 forwarding the application of the workman for consideration. Ext. W/25 is a letter of the Branch Manager, Gundi dated 12-5-1997 furnishing particulars of the workman. According to this letter Raja Ram joined the Branch on 9-7-1987 and he worked upto 30-4-1997. This letter also shows details of amount and duties performed by the workman.

23. Thus, with regard to workman Raja Ram I find that there is over-whelming evidence to prove that he not only worked more than 240 days in a year preceding his termination but also he worked more than 240 days from 9-7-1987 till the date of settlement.

24. W.W. 4 Sved Shankat Ali in his evidence has said that he was appointed on 2-9-1985 by the Branch Manager of Bara Branch of UCO Bank orally. His services were terminated on 22-4-1997. Altogether he worked 2229 days. He has worked for more than 240 days in the year preceding his removal. Ext. W/26 is a letter from the Branch Manager, Bara Branch addressed to the Divisional Manager Ranchi dated 22-4-1997 furnishing the required information about the workman Sved Shankat Ali. According to this letter this workman Shankat Ali had been working in that Branch as a casual worker. As per Telephonic instruction the payment of daily wages was stopped. Ext. W/27 is the statement of days of work in relation to workman Shankat Ali. The zerox copies are not very legible. From this statement it appears that the total number of days Shankat Ali worked is 512.

including 291 days which he worked from 12-10-1986 to 28-9-1989. Ext. W/29 is a letter from the Branch Manager to the Divisional office enclosing the details of date-wise work done by Shaukat Ali as Daftari-cum-Peon.

25. From the above it is proved beyond doubt that Shaukat Ali worked more than 240 days during three years preceding the date of settlement in the year 1989 and he also worked more than 240 days preceding his termination from service. It may here be mentioned that this workman earlier had filed W.J.C. 4957 of 1998 for regularisation of his service. The said writ petition was disposed of on 25-4-2000 since the subject matter of challenge in that writ petition is covered in the present Reference case. While disposing the writ petition Hon'ble Patna High Court made an observation that the status quo/service of the petitioner should be continued. Zerox copy of the certified copy of the said order of the Hon'ble Patna High Court has been filed by the Management. The workman has said that he was terminated from service on 22-4-1997 i.e. much before the order of the Hon'ble Patna High Court. The letter of the Branch Manager dated 22-4-1997 also shows that the payment of wages to the workman had been stopped. There is nothing on the record to show that he was taken back in service after the direction of the Hon'ble Patna High Court for maintenance of status quo.

26. W.W. 11 Tribhuwan Singh in his evidence has stated that he worked from 15-7-1987 till 21-4-1997 when he was removed from service. He has further said that he had worked more than 240 days in the year immediately before removal of his service. He had submitted application to the Branch for regularisation of his service in the light of the settlement dated 12-10-1989. He had also worked more than 240 days in a block of three years preceding the date of settlement. Ext. W/30 is the zerox copy of the application which had been filed by this workman on 28-11-1989 mentioning 15-7-1987 as the date of first engagement. This application had been made for regularisation of his service in the light of the settlement dated 12-10-1989. At the bottom of the petition the Branch Manager has endorsed a certificate regarding the correctness of application. Ext. W/31 is the letter from the Divisional Manager to the Branch Manager asking him to furnish the detail of work done by this workman. Ext. W/32 is the reply from the Branch Manager dated 2-5-1990 mentioning that the workman was performing duties as a Peon in the Branch for the last three years. Ext. W/33 is the letter of the Branch Manager dated 20-12-1994 furnishing particulars of this workman to the Zonal office. In the first enclosure to the letter there is over-writing with regard to the number of days of work upto 12-10-1989 but in the second enclosure it is clearly stated that Tribhuwan Singh worked 619 days till 15-10-1989. Total number of days he worked till the date of termination i.e. 21-4-1997 is 2467 days.

27. Thus, I find that there is satisfactory evidence to show that this workman Tribhuwan Singh had worked more than 240 days in a block of three years preceding the date of settlement and also he worked 240 days in 12 calendar months preceding his retrenchment.

28. W.W. 14 Mithlesh Kumar in his deposition has said that he worked a total period of 2501 days from 21-6-1989 till 21-4-1997 when his service was terminated. Ext. W/35 is a letter from the Branch Manager Jamui furnishing particulars of working of workman Mithlesh Kumar. The first enclosed statement relates to two different workman (not Mithlesh Kumar) for the period of work upto 12-10-1989. The second enclosure (Ext. W/36) shows that Mithlesh Kumar worked 2501 days from 21-7-1989 till 21-4-1997. It is also mentioned in the statement that he was first engaged on 21-7-1989.

29. Thus from the above it becomes apparent that Mithlesh Kumar worked as a Peon for more than 240 days preceding the date of his termination.

30. W.W. 17 Chhote Lal Raut in his evidence has said that he worked as a Peon in the UCO Bank, Gidhaur Branch from 2-4-1988 till 25-4-1997. Altogether he worked 3300 days. He was working against permanent post. He has further said that he had worked more than 240 days from 2-4-1988 to 12-10-1989. He worked a total period of 560 days during

that period. The Branch Manager had written to the Divisional Manager about his working more than 240 days. He had also applied for regularisation of service. He also worked more than 240 days preceding his termination. Ext. M/33 is the zerox copy of the application dated 28-11-1989 which the workman had submitted for regularisation of his service. In this application also it has been mentioned that he worked from 2-4-1988 to 12-10-1989. Ext. W/39 is the Zerox copy of letter written by the Branch Manager of Gidhaur Branch of UCO Bank to the Divisional Office stating therein that this workman was working in the Branch since 2-4-1988. It is also mentioned that he has been working as a Peon on daily wages without any break barring one or two days absence whose records are not available at the Branch. Ext. W/40 is a letter from the Branch Manager, Gidhaur to the Zonal Manager dated 19-12-1994 giving particulars of this workman and also mentioning that he was working since 2-4-1988.

31. From the oral evidence of this workman Chhote Lal Raut and from Ext. W/39 it is well proved that he worked more than 240 days from 2-4-1988 till the date of settlement and he also worked more than 240 days in 12 calendar months preceding his retrenchment.

32. W.W. 13 Pankaj Kumar Sinha has said that he had been appointed in the Bank orally by the Branch Manager on 14-4-1989. He worked till 25-4-1997 when his service was terminated. He has said that he altogether worked for a period of 2932 days. He worked more than 240 days continuously in one year preceding his retrenchment. Ext. W/41 is the zerox copy of the particulars of this workman furnished by the Branch Manager Chakai, Jamui before the Zonal Manager, Patna. The date of his first engagement has been mentioned as 14-4-1989. Ext. W/42 is a certificate granted by the Branch Manager of Chakai Branch dated 22-7-1999 to the effect that Sri Pankaj Kumar Sinha was a daily rated workman from 14-4-1989. He worked till 25-4-1997 when his service was terminated.

33. Thus, it is well proved from the oral evidence and from Ext. W/41 and W/42 that the workman worked continuously in the Bank from 14-4-1989 till 9-6-1997 i.e. he worked more than 240 days in 12 months immediately before retrenchment.

34. W.W. 12 Matuki Mahto in his deposition has said that on 11-4-1988 he was appointed as a Peon orally by the Branch Manager of UCO Bank, Sniya. He worked continuously from 11-4-1988 to 9-4-1997 when he was removed from service. According to him altogether he worked 2220 days. Ext. W/43 is a certificate granted by the Manager, Surya Branch of the UCO Bank dated 31-7-1999, to the effect that Sri Matuki Mahto worked in his Branch as a daily worker for around nine years i.e. 2220 days starting from 11-4-1988 to 9-6-1997. He was retrenched on 9-6-1997. Thus the case of the workman that he worked continuously from 11-4-1988 till 9-6-1997 get support from this certificate granted by the Branch Manager. I therefore find and hold that this workman not only completed 240 days in 12 calendar months preceding his retrenchment but he had also worked more than 240 days in a Block of three years preceding 12-10-1989, the date of settlement.

35. W.W. 5 Bibha Nand Hari in his evidence has said that he was first appointed orally by the Branch Manager of Beldiha Branch of UCO Bank on 18-1-1988. He was removed from service on 29-8-1996. He has further said that he had worked more than 240 days in the year preceding his retrenchment. Altogether he worked 1246 days. Ext. W/44 is the zerox copy of a letter from the Branch Manager, Beldiha Branch addressed to the Head Office, Calcutta dated 24-1-92 recommending the case of this workman for empanelment as daily wage worker. Further it has been mentioned in this letter that this workman has been working continuously as daily wage worker since 18-1-1988. His service was curtailed w.e.f. 28-9-1996 consequent upon posting of a permanent subordinate staff in the Branch. It is further mentioned that zerox copies of three sets of the relevant papers including bio-data were enclosed with the said letter. The Branch Manager has recommended for sympathetic consideration of the worker. The enclosure shows that the workman altogether worked for 1246 days till June 1996. The details of days worked

are also given month-wise. Ext. W/45 is a certificate granted by the Branch Manager of Berdha Branch dated 20-6-1996. This certificate shows that the workman did not complete 240 days before the date of settlement. He has worked more than 240 days after the settlement and before his retrenchment. The workman in his evidence has not also claimed that he worked 240 days before the date of settlement. Accordingly I find that this workman has been able to prove that he worked more than 240 days before his retrenchment.

36. Ext. W/46 is xerox copy of the letter from the Branch Manager proposing for sanction a post of Sweeper. This document is not relevant.

37. W.W. 10 Sheo Kumar Singh in his evidence has said that he was appointed as a Peon on 1-10-1993 by the Branch Manager of UCO Bank, Kishuniaspur orally. He worked upto 11-3-1997 when his service was terminated. Altogether he worked for 1053 days. He had worked 240 days in the year before his removal. Ext. W/47 is a letter from the Zonal Manager to the Branch Manager asking him to furnish details about the working of casual worker Sheo Kumar Singh. Ext. W/43 is the reply from the Branch Manager to the Zonal Manager. It is dated 23-12-1994. The details of working of this workman have been furnished in this letter. It is not very much legible. It shows that the first engagement of Sheo Kumar Singh was in the year 1991. One enclosure to Ext. W/43 is a letter written by the Branch Manager dated 20-4-1997 addressed to the Unit Asstt. Secretary of the Union stating therein that this workman worked in Kishuniaspur Branch from 1-10-1993 to 11-3-1997. He worked 80 days in the year, 1993, 299 days in the 1994, 299 days in the year 1995, 299 days in the year 1996 and 76 days in the year, 1997. Total working period is 1053 days.

38. Thus I find that there is enough reliable evidence to prove that this workman Sheo Kumar Singh had worked more than 240 days in the year preceding his termination.

39. W.W. 15 Laxhuman Maholi in his oral evidence has said that he worked from 12-10-1986 to 15-4-1997. He worked a total period of 2670 days. He has further said that he had worked 240 days in a calendar year preceding his termination. He had applied for regularisation of his service. Ext. W/50 is a letter from the Branch Manager, Dhanaura Branch to the Divisional Manager, Bhagalpur dated 25-6-90 in reply to the letter dated 26-5-1990 on the subject of engagement of casual workers. In this letter the Branch Manager has mentioned that this workman Laxhuman Maholi worked and discharged all the duties of staff of subordinate cadre for 261 days from 12-10-1986 to 12-10-1989. It is also mentioned in the letter that the workman is labourious, honest and believable worker. The enclosure to this letter shows that the engagement of this workman was 12-10-1986 and the date of termination was 15-5-1997.

40. Thus, from the oral and documentary evidence it is well proved that this workman Laxhuman Maholi not only worked more than 240 days immediately before retrenchment but also he had worked 240 days in Block of three years preceding the date of settlement.

41. The learned counsel for the Management submits that the engagement of casual workers was illegal. At the time of engagement the rules of recruitment such as calling for names from the Employment Exchanges, advertisement of the vacancies, interview, selection etc. were not followed. The engagement was made by Branch Managers who were not authorised to do so. There was specific prohibition from the Bank to the Branch Managers not to engage any casual worker and direction to disengage casual workers if engaged unauthorisedly through its circular dated 31-3-1990 (attached with the written statement filed on behalf of the Management) and subsequent circulars dated 29-3-1997 and 20-4-1997 (Exts. M and M1). It was further contended that as the engagement did not conform to the requirements of Articles 14 and 16 of the Indian Constitution and since, the same were made by a Branch Managers who had no authority to do so, the said engagements were a nullity and void from the very beginning and hence, the concerned workmen did not derive any legal right therefrom. They can not even

be reinstated in service since it will mean reinstatement to illegal appointments. In this connection the learned counsel has cited the following judicial decisions:—

- (i) Uday Kumar Sharma Vs. Registrar, Co-operative Societies, Bihar and others—1989 P.L.J.P. page 952.
- (ii) Ishwar Dayal Sah Vs. State of Bihar and another 1987 P. L. J. R.—820.
- (iii) 2000(3) P.L.J.R. page 206.
- (iv) 1986 P. L. J. R. page 673—Deewakar Pd. Yadav and others Vs. State of Bihar.

The Management has cited one another decision in its written statement vide C.W.F.C. No. 4115 of 1997 but no copy of the said decision was shown to me. All the aforesaid decisions cited by the learned counsel for the Management relate to cases where writ petitions under Articles 226 and 227 of the Constitution of India were filed directly in the High Court seeking a direction for regularisation of services. As has been held by our own High Court in the case of Superintendent Engineer Rashtriya Uchh Path Anchal, Muzaffarpur Vs. P.W.D. Workers Union [reported in 1995 (1) P.L. J.R. page 303], the Industrial Disputes Act provides a conceptual frame-work within which entities are created and their mutual rights and obligations are determined in order to achieve the legislative object. The definition of workmen in section 2(s) of the I.D. Act has been given very wide meaning by the Courts and considerations of the workman appointment being regular or irregular, legal or illegal are irrelevant. In the present case, the industrial dispute relates to the propriety and validity of the retrenchment of the concerned workmen and it has to be adjudicated upon by this Tribunal as envisaged under the I.D. Act. The respective rights and obligations of the employers and workmen are to be considered under the said Act.

42. It is well settled law that services terminated in violation of section 25F of the I.D. Act is ab-initio void and the Employee is entitled to continuity in service with full back wages (Mayaratan Chopra Vs. P.D. Labour Court and others reported in 1989 S.C. cases (L&S) page 565). Even a daily rated workmen who has completed 340 days of service within the meaning of section 25(B) of the I.D. Act can not be terminated from service on the ground of misconduct without a departmental enquiry or without complying the provisions of section 25F of the I.D. Act. Termination of employment on the ground of appointment being illegal will itself qualify as retrenchment within the meaning of section 2(oo) of the I.D. Act. The idea of illegal or invalid appointment is quite foreign to the Scheme of the I.D. Act (A.I.R. 1994 S.C. page 1638, 1994 (2) P.L.J.R. page—669 and also page 249)

43. As we have seen all the 16 concerned workmen had completed working for more than 240 days preceding the date when their services were terminated. There is overwhelming evidence on the record to show that before termination the requirement of notice or wages in lieu of notice and retrenchment compensation u/s. 25F of the I.D. Act were not complied with. So I find and hold that all the following 16 workmen namely (1) Sri Basant Ram Rabidas (2) Sri Jai Prakash (3) Sri Bipin Kumar (4) Shri Shiv Pd. Thakur (5) Sri Sanjay Kumar (6) Sri Raja Ram (7) Sri Shaikat Ali (8) Sri Tribhuwan Singh (9) Sri Mithilesh Kumar (10) Sri Chhote Lal Rawat (11) Sri Pankaj Kumar Sinha (12) Sri Matuki Mahto (13) Sri Bibha Nand Hari (14) Sri Shiv Kumar Singh (15) Sri Laxman Maholi (16) Sri Lallan Kumar are entitled to reinstatement with the payment of full back wages as the termination of their services was not justified, and the same was unjustified and void ab-initio

44. I also find that out of them the following ten workmen namely (1) Lallan Prasad (2) Sri Rasan Ram Rabidas (3) Sri Bipin Kumar (4) Sri Sheo Prasad Thakur (5) Sri Raja Ram (6) Shri Shaikat Ali (7) Sri Tribhuwan Singh (8) Sri Chhote Lal Rawat (9) Sri Matuki Mahto (10) Sri Laxman Maholi had completed their working for a period over 240 days in a Block of three years preceding the date of settlement dated 12-10-1989. The said settlement and



subsequent circular of the Bank in pursuance of the Settlement (Ext. W/51) are binding upon the Management. It may be noted that there were two similar cases before the Hon'ble Patna High Court. Zerox copy of the certified copy of the decision of the Division Bench of Hon'ble Patna High Court dated 6-1-1993 in C.W.J.C. 9141 of 1992 has been filed on behalf of the workman. In that case the workman had worked from 7th November, 1985 to 2nd July, 1987 when his services were terminated. The Hon'ble Patna High Court held that the Industrial Tribunal can also grant relief regarding regularisation of service having regard to the terms of Reference. The workman had been terminated in the year 1987 and as the settlement was in the year 1989 the relief has to be given on the basis that no termination of service ever took place and that the workman was all along in service. If that is so, there is no reason why if the wrongful termination is set aside, he could not be given relief on the basis that he had all along been in service. Accordingly the Patna High Court upheld the Award of the Tribunal allowing reinstatement with payment of full back wages and also regularisation. The other similar case which was before the Hon'ble High Court is C.W.J.C. 7950 of 1998. The order is dated 3-11-1999. Zerox copy of the certified copy of the decision of that case has also been filed. In the subsequent case the Hon'ble Court has relied on its earlier decision passed in C.W.J.C. 9141 of 1992. It is also mentioned that the Bank preferred Special Leave petition bearing (Civil) S.L.P. No. 4131 of 1993 against the aforesaid order passed by the Division Bench in C.W.J.C. No. 9141 of 1992. The S.L.P. was dismissed by the Hon'ble Supreme Court by the order dated 4-1-1993.

45. Thus, in view of my above discussions I find and hold that the ten aforementioned workmen are also entitled for regularisation of their service in addition to reinstatement and payment of full back wages. The Reference is accordingly answered. The Management is directed to reinstate all the concerned 16 workmen with payment of full back wages. They are also directed to absorb and regularise aforesaid ten workmen who had completed working for a period of more than 240 days in the Block of three year before the date of settlement i.e. before 12-10-1989. The Management is to implement this award within a period two months from the date of its publication.

46. This is my award.

Dictated and corrected by me.

Patna, 12-3-2001

S. K. MISHRA, Presiding Officer

नई दिल्ली, 26 मार्च, 2001

का.आ. 821 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्वय में, केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अन्वय में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नई दिल्ली के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार 23-3-2001 को प्राप्त हुआ था।

[सं. एल-12012/270/97-आई आर (बी-II)]

सी. गंगाधरन, अवसर मन्त्रि

New Delhi, the 26th March, 2001

S.O. 821.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal/Labour Court, New Delhi as shown in the annexure in the Industrial Dispute between the employers in relation to the management of Punjab National Bank and their Workman, which was received by the Central Government on 23-3-2001.

[No. L-12012/270/97-IR (B-II)]  
C. GANGADHARAN, Under Secy.

## ANNEXURE

BEFORE SHRI K. S. SRIVASTAV : PRESIDING  
OFFICER : CENTRAL GOVT. INDUSTRIAL TRIBUNAL:  
NEW DELHI

I. D. No. 12/98

In the matter of dispute between :

Shri Anil Kumar,  
E-523, Inderpuri, J.J. Colony,  
New Delhi-110012.

Versus

Punjab National Bank,  
Regional Manager,  
Punjab National Bank,  
R.O. (SD) Tolstoy Marg,  
New Delhi-110001.

## APPEARANCES :

None for the workman.

Shri Deepak Dhawan, for the Management.

## AWARD

This reference has been sent by the Central Government Ministry of Labour vide its Order No. L-12012/270/97/IR (B-II) dated 31-12-1997 under section 10(1)(d) and 2-(A) of the I.D. Act, 1947 (hereinafter referred to as Act) for the adjudication of industrial dispute on the following terms :—

"Whether Shri Anil Kumar, Part-time Safaiwala with Punjab National Bank, in the circumstances of the dispute has voluntarily ceased to be in employment of the Bank due to his long absence or not?"

2. Claim statement, written statement and rejoinder have been exchanged between the parties.

3. While pointing out defects in the terms of reference that it does not contain the relief clause workman has stated that a representation has been given by him to the Ministry of Labour for amending the terms of reference accordingly and in case the amended terms of reference is received he reserves the right amendment of the statement of claim if necessity to do so is felt.

4. The workman's averment in short is that he had joined his services under the management on 20-7-87 as a part time sweeper in a temporary capacity and his working hours were 8 AM to 12 Noon daily. He was posted at Naraina then. His services were regularised after 7—8 months and he was then deputed to the branch of the management at Kotla Mubarakpur, New Delhi and from there after two years he was sent on transfer to Gopi Nath Bazar Branch of the Management Bank.

5. It is further averred by the workman that on account of his ill-health he was forced to remain absent frequently from his duties but he had never absented himself in an unauthorised manner. He has always produced medical certificates of the competent medical authority either before going on leave or after return to duty from leave. He was forced to go on leave without pay even.

6. It is further averred that it had so happened on such occasion that after remaining absent from duty on account of his illness he had gone to join his duty on 9-1-96 with the medical certificate for the period of his illness from 8-10-94 to 8-1-96 but he was not permitted to join his duty and was then asked to come on the next date i.e. 10-1-96 for joining his duties and on 10-1-96 when he had gone to join his duty he was told that he would be intimated about joining duty through letter at his home address. It is averred again by the workman that while he was waiting for the letter from the Bank for his joining duties he was intimated through a letter of the management that on account of his continuous long absence from duties unauthorisedly he was treated as voluntarily relieved from the service. He had then gone to the Bank to make enquiries but he was not allowed to enter the Bank. It is again averred by the workman that the action of

the management deeming him as voluntarily retired from service actually amounts to retrenchment and employee can be retrenched only after the compliance of the provisions of section 25 of the Act and since provisions of section 25-F have not been complied with in the case of the workman the action of the management can never be held as legal and justified.

7. The workman has also averred that he had raised an industrial dispute before the A.L.C., New Delhi but it could not succeed because the management was not prepared to take him in the service. On behalf of the Management the petitioner's case that his voluntary retirement was illegal has been denied. It is stated on behalf of the management that the service conditions of the employee of the Bank were governed by the provisions of the Sastry Award, Desai Award and various Bipartite settlement. The management's assertion is that according to para 17 of the Bipartite Settlement dated 10-4-84 an employee who absents himself from duty for more than 90 or more days consecutively without submitting leave application he could be deemed to be voluntarily retired after giving 30 days notice and after being satisfied that such employee had no intention to join duties.

8. On facts the management has stated that the workman had joined his service in the bank on 11-1-90 and then w.e.f. 25-1-91. He was posted at branch office of the Bank at Kotla Mubarakpur and from there he was transferred to Branch Office of the Bank in Delhi Cantt where he had reported for duty on 21-6-93. The Management's assertion is that before joining the branch office of the bank in Delhi Cantt on 21-6-93 workman had already availed 417 days leave on loss of pay and again upto 31st December, 1993, he had further availed 95 days leave that too on the loss of pay. The workman had become further absent w.e.f. 14-1-94 without any intimation and he was given notice on 5-5-94 through registered post advising him to report back on his duty failing which he would be deemed to be voluntarily retired. The workman had then joined his duty on 31-5-94 after remaining absent for 136 days but again he became absent from duty w.e.f. 8-10-94 for which a letter dated 28-10-94 was sent to him stating about his absence from duty and again vide letter dated 11-8-95 he was advised to report on duty within 30 days failing which he would be presumed as not interested in his job and would be deemed to have been voluntarily retired. But the workman failed to join his duties and then after waiting further for more days later dated 16-1-96 was sent to him intimating that he was deemed to be voluntarily retired from the bank service. The action of the bank was thus valid and justified and the dispute raised by the workman has no merit.

9. In rejoinder the workman has reiterated allegations made in the statement of claim. The workman has not disputed about the provisions of para 17 of the Bipartite Settlement dated 10-4-89 dealing with the voluntary retirement of the Bank's employee. He has, however, denied that he had already joined his duty on 11-1-90 as stated by the management and has reiterated that he had joined on 20-7-87. The workman has also not disputed about the fact of his absence from duty as stated by the management prior to 8-10-94. The factum of his remaining absent from duty even after 8-10-94 is not disputed and it is only stated in this respect that the show cause notice said to have been given to him on 11-8-95 was not correct since the date which it bears shows as 11-8-95 which was also its despatch date but photo copy of it shows that it was actually despatched on 11-9-95. He has reiterated that in response to the notice dated 9-1-96 he had reported on duty and had carried with him medical certificates of registered medical practitioners for his absence from 8-10-94 to 8-1-96 and also his fitness certificate but was denied to join his duty and was wrongly deemed voluntarily retired from service by the Management. The notice dated 16-1-96 of the management sent to him for his voluntary retirement from the service was an after thought of the management and was sent illegally.

10. The evidence in the case has been led only on behalf of the management in the shape of affidavit of Shri O. P. Khanna an officer of the Management Bank then posted as Officer at branch Office of Delhi Cantt. He has stated about the case of the management and denied the workman's contentions that he was retired voluntarily from the service

illegally. He could not be cross-examined the workman despite the opportunity being given on various dates fixed in the case could not cross examine and ultimately it was on 27-7-2000 when the workman was found absent, his right of cross examination of management witness was closed and direction for proceeding ex parte against him was given.

11. Arguments heard in the case.

12. As regards the workman's case that since in the terms of reference no relief clause is given and hence it is defective, I do not find any relevancy in it. The job of giving a relief in the case vests in a court. Even if where relief clause is not given in any reference I find the court is not precluded to record its finding on the relief in respect of the entitlement or disentitlement of the relief to the parties.

13. Now coming to the merit of the case that the contention of the workman that management's action of dealing him voluntarily retired from the service actually amounts to retrenchment and legal due to non observance of the provisions of section 25-F of the Act. After having considered the facts and circumstances of the case I find it got no merit. The Management's case specifically is that the services of the workman were deemed as voluntarily retired on the basis of the provisions of para 17 of the Bipartite Settlement dated 10-1-89. According to it any employee who remains absent continuously for 90 days without any intimation should be deemed to be voluntarily retired after giving 30 days notice to him, and on the satisfaction of the bank that such employee is uninterested to continue in service. The management has stated that the services of the employees of the bank are governed by the awards known as Sastry Award, Desai Award and also by various bipartite settlements. It is not denied by the workman. In view of the fact since the action of the management against the workman deeming him as a voluntarily retired from service has been taken in accordance with para 17 of the Bipartite Settlement dated 10-4-89 by no stretch of imagination in my view it can be taken that action of the management so taken amounts to retrenchment as contended by the workman. The workman's contention made in this respect thus is rejected. As regards the question of legality of the management's action voluntarily retiring the workman from service after a careful examination of the entire matter I find that it cannot be in any manner. Held as unjustified and illegal.

14. In my view it is undoubtedly true that the Bank has taken action of the voluntary retirement of the workman after complying the requirements provided in para 17 of the Bipartite Settlement dated 10-4-89, on a clear finding that the workman's absence from duty for more than 90 days was without any intimation by him. He was also served with the prior notice dated 16-1-96. The fact as stated by the workman that after the notice he had gone to join his duties in the bank but he was denied to join it by the authorities of the bank, I find is not supported by any proof and it cannot be thus believed. The workman has neither filed his affidavit nor any oral statement on oath has been given by him in this respect. Mere allegation made in the pleadings by him in absence of any proof cannot be believed. The fact that the workman has filed photo copies of the document in this respect since have not been proved cannot be taken into consideration to support the workman's case. On the other hand the Management's affidavit of Shri O. P. Khanna has been given in evidence. He has denied the workman's allegation that he had reported for duty on 19-1-1996 alongwith the medical certificate and he has supported the management's case totally. He has not been cross-examined by the workman and whole of the statement goes uncontested. I do not find any reason to disbelieve him. His affidavit is thus accepted as truthful. The management's version of the contentions made in this respect is legality of its action deeming the workman as voluntarily retired from service thus is accepted.

15. In view of the discussions made above, terms of reference is answered in affirmative and award is given accordingly.

K. S. SRIVASTAV, Presiding Officer

Dated : 21-3-2001.



नई दिल्ली, 26 मार्च, 2001

का.आ. 822. —औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसूच में, केन्द्रीय सरकार एल.आई.सी. ऑफ इंडिया के प्रबंधन के संबंध में निरीक्षणों और उनके कर्मचारियों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय जबलपुर के पंचाट को प्रकाशित करने है, जो केन्द्रीय सरकार को 21-3-2001 को प्राप्त हुआ था।

[सं. एल-17012/16/87-डी आई वी (ए)]

सी. गंगाधरन, अवसर सचिव

New Delhi, the 26th March, 2001

S.O. 822.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal/Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of LIC of India and their workman, which was received by the Central Government on 21-3-2001.

[No. L-17012/16/87-D. IV(A)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

Case No. CGIT/LC/R/246/87

Presiding Officer : Shri K. M. Rai  
The General Secretary,  
Indore Divisional Insurance  
Employees Association,  
59, Bimanagar,  
Indore.

Applicant.

Versus

The Sr. Divisional Manager,  
LIC of India,  
Divisional Office,  
19, MG Road,  
Indore.

Non applicant

AWARD

Passed on this 5th day of March, 2001

1. The Government of India, Ministry of Labour vide order No. L-17012/16/87-D. IV-A dated 30-11-87 has referred the following dispute for adjudication by this tribunal—

“Whether the action of the management of Life Insurance Corporation of India, Indore Division in dismissing Shri S. B. Patole, sub staff in Career Agents Branch Indore from service w.e.f. 5-1-84 is justified? If not, what relief the workman is entitled to?”

2. The case for the workman is that he was employed as sub-staff in the career agent branch, Indore of LIC. The Divisional Manager, LIC Indore division chargesheeted the workman on 31-1-83 for cheating and defrauding the management. The charges framed against the workman are as under:—

1. That you along with others with intent to cheat and defraud the corporation conspired to have planted or caused to have planted, fabricated policy files and two fake loan applications under Policy Nos. 2841317 and 28455023 purported to have been issued on the life of Mr. Krishna Singh Tomar on or about 24-11-82 at Career Agents Branch, Indore you further planted or caused to have planted on the tables of the dealing Assistants in Career Agents Branch, Indore on or about 25-11-82 the fabricated policy bond under Policy No. 28455023 along with fictitious loan application form

receipt and the assignment duly witnessed and signed under the signatures as Krishna Singh in Hindi.

2. That in furtherance to your aforesaid intention to cheat and defraud the corporation, you caused to have removed the loan cheque dated 26-11-82 for an amount of Rs. 15,240 issued by the Career Agents Branch, Indore in favour of Krishna Singh Tomar and bearing the cheque No. CCBP 334483 drawn on Canara Bank, Siyaganj, Indore with the object of realising its proceeds through forgery and impersonation, thereby causing financial loss to the Corporation.

3. That with intent to cheat and defraud the Corporation, you also planted or caused to have planted fabricated policy files and loan applications under policy Nos. 28344192, 28344191 at Branch office Mhow on or about 24-11-82. You further caused to have planted the loan application form, receipt form assignment duly completed and signed together with the forged and fabricated policy document bearing No. 28344191 in the name of Mr. Krishna Singh Tomar at Branch office Mhow on or about 10-12-82.

4. That you further removed or caused to have removed the policy files under Policy Nos. 2841317 and 28455023 at Career Agents Branch, Indore with a view to destroying the incriminating evidence. You also caused to have destroyed the loan payment voucher and other papers prepared under Policy No. 28344191 of Branch Office, Mhow on or about 10-12-82.

By your above acts you have:

I. Failed to maintain absolute integrity and devotion to duty; and

II. Failed to serve the Corporation honestly and faithfully, and

III. Knowingly acted in a manner detrimental in the interest of the Corporation and prejudicial to good conduct.

3. It is alleged by the workman that he submitted the reply to the chargesheet and denied all the charges framed against him. The explanation of the workman was not accepted by the management and the DE was conducted against him. The Enquiry Officer found the charges proved against him. The report of the Enquiry Officer was accepted and on 5th January, 1984 the punishment of dismissal from service was awarded to the workman. During the enquiry the workman was not given adequate opportunity to defend himself properly. The Enquiry Officer acted illegally and arbitrarily during the enquiry proceedings. He also violated the principles of natural justice. The workman was not allowed by the Enquiry Officer to engage the handwriting expert to cross-examine the management handwriting expert witness C.T. Sarbatte and in this way the workman was prevented from cross-examining him properly. The finding of the Enquiry Officer is absolutely perverse. The Enquiry Officer had illegally relied on the evidence of the handwriting expert in utter disregard of the legal provisions. The prosecution witnesses were absolutely interested in the management and therefore their evidence cannot be said to be independent one. The finding of the Enquiry Officer based on such evidence cannot be sustained in the eye of law.

4. The workman further alleges that the charges framed against him were false and baseless and not a single charge was proved against him during the Departmental Enquiry. The appropriate authority did not apply its mind in awarding the punishment of dismissal from service. In view of all these facts, the dismissal order dated 5-1-84 deserved to be quashed. The workman is entitled to reinstatement with back wages and other monetary benefits.

5. The case for the management is that the workman was afforded adequate opportunity to defend himself during the enquiry proceedings. He had cross examined the prosecution witnesses before the Enquiry Officer properly with the help of his assistant. The Enquiry Officer had legally appreciated the evidence of the prosecution witnesses and came to the right conclusion that the charges framed against the workman were proved against him. The competent authority accepted the report of the enquiry officer and imposed the punishment of dismissal from service. The report of the Enquiry Officer

is perfectly legal and justified. The workman was not punished on the sole evidence of handwriting expert Shri C. P. Sarvate. In fact the management did not engage any lawyer or handwriting expert for the purposes of examining and cross examining the handwriting expert examined by the workman. The management afforded all the reasonable opportunity to the workman and his expert witness Shri Ganorkar to examine all the documents and take copies and photographs and to examine his own handwriting expert in defence. Shri Ganorkar examined all the relevant documents, took their photographs and submitted his report was examined to prove the same in the course of enquiry by the workman. After appreciating the evidence of both the sides, the Enquiry Officer rightly held the charges proved against the workman. The workman did not think it proper to examine himself before the enquiry officer in support of his defence. The workman was supplied all the relevant documents as required by law. The punishment awarded to the workman is perfectly legal and justified and does not require any interference.

6. The following issues have been framed in this case and the findings thereon are noted hereinafter—

1. Whether the domestic/departmental enquiry is proper and legal?
2. Whether the punishment awarded is proper and legal?
3. Whether the management is entitled to lead evidence before this tribunal?
4. Whether the termination action taken against the workman is justified on the facts of the case?
5. Relief and costs?

7. Issue No 1 and 3. On 5-3-91 this tribunal held the Departmental Enquiry as improper and accordingly the finding of the enquiry proceedings were set aside. By this order, the management was directed to record fresh finding after permitting the workman to cross examine the management's witness and permitting him to meet the adverse situation if any, arising out of the cross examination as prayed by the workman before the Enquiry Officer. The management was also directed to furnish fresh finding within 1 month from the date of order. This order of the tribunal was quashed by the High Court of MP passed in MP No 2032 of 1993, Life Insurance Corporation of India versus Suresh and others on 14-3-95.

8. From the perusal of departmental enquiry papers and the report filed by the enquiry officer it appears that the ample opportunity was afforded to the workman to put up his defence properly during the enquiry proceedings. The workman had cross examined the witnesses at length suggesting all his possible defence in the case. The expert witnesses were also allowed to be examined by the workman to cross-examine the handwriting expert of prosecution witnesses. In this way ample opportunity for defending the case was given by Enquiry Officer to the workman in compliance with the provisions of natural justice. In view of all these facts, I find that the enquiry was conducted in a proper and just manner against the workman. The management is therefore not required to lead any more witness to prove the alleged misconduct against the workman. Issues No. 1 and 3 are answered accordingly.

9. Issue No. 2 and 4: It has already been held that the DE was conducted against the workman in a just and proper manner. Now we have to examine as to whether the punishment of dismissal awarded against the workman is proper in the circumstances of the case or not? This court cannot reappreciate the evidence produced before the Enquiry Officer during the Enquiry proceedings. From the enquiry report it is amply clear that the Enquiry Officer had discussed and appreciated the evidence of both the parties properly and then came to the conclusion that the charges were proved against the workman. The report of the Enquiry Officer in no manner appears to be perverse. In such a circumstance it does not require any interference by this court. Looking to the serious charges of misconduct framed against the workman, the punishment of dismissal awarded to him (workman) is perfectly just and legal? I do not find any reason to reduce the punishment of dismissal awarded by the management to the workman. Issue No 2 and 4 are answered accordingly.

10. Issue No 5: On the reasons stated above, it is held that the enquiry was properly conducted against the workman. The punishment of dismissal from service awarded against the workman by the management is just and proper on the circumstances of the case and it does not require any interference by this court. The workman is not entitled to any relief as claimed by him. The reference is accordingly answered in favour of the management and against the workman.

11. Copy of the award be sent to the Ministry of Labour as per rules.

K. M. RAI, Presiding Officer

नई दिल्ली, 26 मार्च, 2001

का.आ. 823.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पंजाब एवं सिंध बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-3-2001 को प्राप्त हुआ था।

[सं. एल-12012/107/98-आई प्रार (बी-II)]

सी गंगाधरन, अधर सचिव

New Delhi, the 26th March, 2001

S.O. 823.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal/Labour Court, Jabalpur as shown in the annexure in the Industrial Dispute between the employers in relation to the management of Punjab & Sind Bank and their workman, which was received by the Central Government on 21-3-2001.

[No. L-12012/107/98-IR(B-II)]

C. GANGADHARAN, Under Secy.

### ANNEXURE

### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

Case No. CGIT/LC/R/112/99

Presiding Officer : Shri K. M. Rai.

Shri Satyawar Chaturvedi.

P.O. Raussar,

Village Pipra,

Distt. Rewa (MP)

... Applicant

Versus

The Branch Manager,

Punjab & Sind Bank,

Rewa (MP)

... Non-applicant

### AWARD

Passed on this 1st day of March, 2001

1. The Government of India, Ministry of Labour vide Order No. L-12012/107/98-IR(B-II) dated

4-3-99 has referred the following dispute for adjudication by this tribunal—

“Whether the demand made by Shri Satyawan Chaturvedi for his reinstatement w.e.f. 8-6-96 with all attendant benefits by the management of Punjab and Sind Bank at Rewa as a sub staff is legal and justified? If not, what relief is the workman entitled to?”

2. The workman did not appear in the court when the case was called on for hearing. Hence proceeded ex parte. It appears that the workman is not interested in pursuing his claim.

3. In view of the above said facts, no dispute between the parties exists. The workman is therefore not entitled to any relief as claimed by him. The reference is accordingly answered in favour of the management and against the workman.

4. Copy of the award be sent to the Government of India, Ministry of Labour as per rules.

K. M. RAI, Presiding Officer

नई दिल्ली, 26 मार्च, 2001

का.आ. 824.—औद्योगिक दिवस अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार केनरा बैंक के प्रबंधन के संबंध निरोजों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/अम न्यायालय, चर्च के पचाट का प्रसारित करती है, जो केन्द्रीय सरकार को 26-3-2001 को प्राप्त हुआ था।

[स. एल-12012/54/99-अर्ह प्रार (बी-II)]

सी. गंगाधरन, अपर सचिव

New Delhi, the 26th March, 2001

S.O. 824.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Labour Court, Chennai as shown in the annexure in the Industrial Dispute between the employers in relation to the management of Canara Bank and their workman, which was received by the Central Government on 26-3-2001.

[No. L-12012/54/99-IR(B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVT. LABOUR COURT, CHENNAI

PRESENT :

Thiru A. Ahamadullah, B.Sc., B.L.  
Presiding Officer.

Monday the 5th Day of March, 2001

Industrial Dispute No. 346 of 1999

BETWEEN :

Thiru P. Anbu Selvan,  
S/o Packrisamy,  
26-F, Valliammal Salai, Nagai Road,  
Vedaranyam.

AND

The Asst. General Manager,  
Canara Bank Staff Section (W),  
Madras Circle Office,  
Post Bag No. 1078,  
563/1, Anna Salai, Veynampet,  
Chennai-18.

AWARD

This industrial dispute has been referred to this court for adjudication of the dispute between the workmen Thiru P. Anbu Selvan and the management of Canara Bank, Chennai, by the Govt. of India, Ministry of Labour, by G. O. No. L-12012/54/99-IR(B-II), dated 10-6-99, on the following issue :

“Whether the order dated 16-12-97 of the management of Canara Bank in deleting the name of the workman, Sh. P. Anbuchelvan from the panel of daily wages is justified. If not, to what relief he is entitled.”

2. The workman filed claim-statement but the management has not filed counter-statement.

3. When the dispute was taken up for hearing on 26-2-2001, the respondent was called absent and was set ex parte. To-day the petitioner has been examined as W.W.1. Exs. W.1 to W.12 have been marked. Records pursued, Claim proved. In the result, an award is passed directing the respondent to reinstate the petitioner with backwages and continuity of service with costs of Rs. 500/-.

Dated at Chennai, this the 5th day of March, 2001.

A. AHAMADULLAH, Presiding Officer

LIST OF WITNESSES EXAMINED :

For the Workman :

P.W.1—P. Anbuchelvan.

For the Management :

None

LIST OF EXHIBITS MARKED :

For the Workman :

Ex.W.1/16-10-85—Letter of appointment.

Ex.W.2/29-3-96—Charge memo.

- Ex.W.3|5-7-96—Reply to charge memo.  
 Ex.W.4|12-8-96—Charge sheet.  
 Ex.W.5|25-9-96—Reply to charge sheet.  
 Ex.W.6|9-10-96—Initiation of the enquiry proceedings.  
 Ex.W.7|22-11-96—Notice of enquiry proceedings.  
 Ex.W.8|5-11-97—Letter enclosing findings of the enquiry officer dt. 31-10-97.  
 Ex.W.9|10-11-97—Reply to enquiry findings.  
 Ex.W.10|11-12-97—Notice regarding punishment.  
 Ex.W.11|16-12-97—Dismissal order.  
 Ex.W.12|23-11-98—Letter from respondent to Asst. Labour Commissioner.

For the Management :

NIL.

नई दिल्ली, 26 मार्च, 2001

का.आ. 825.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार यूनियन बैंक ऑफ इंडिया के संबंधित के संबद्ध नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक प्रतिकारण/श्रम न्यायालय, कानपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-3-2001 को प्राप्त हुआ था।

[सं. एल-12011/64/96—आई आर (बी-II)]

सी. गंगाधरन, अवसर सचिव

New Delhi, the 26th March, 2001

S.O. 825.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal/Labour Court, Kanpur as shown in the annexure in the Industrial Dispute between the employers in relation to the management of Union Bank of India and their workman, which was received by the Central Government on 26-3-2001.

[No. L-12011/64/96-IR(B-II)]

C. GANGADHARAN, Under Secy.

#### ANNEXURE

BEFORE SRI R. P. PANDEY, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, SARVODAYA NAGAR, KANPUR

Industrial Dispute No. 209 of 1997

In the matter of dispute between :—

The General Secretary,  
 Union Bank Employees Union (UP)

628/M-33, Murari Nagar, Faizabad Road, Lucknow.

AND

The General Manager,  
 Union Bank of India,  
 Zonal Office Kapoorthala Complex,  
 Aliganj, Lucknow.

#### AWARD

1. Central Government, Ministry of Labour, New Delhi, vide its notification No. L-12011/64/96-IR(B-II) dated 30-9-97 has referred the following dispute for adjudication to this Tribunal—

Whether the action of the management of Union Bank of India, Lucknow in denying opportunity to the employees of clerical cadre to apply for the post of Special Assistant is a violation of their promotion policy circulated vide No. 3919 dated 23-10-92 ? If so, what relief the affected clerical cadre employees of the said zone are entitled ?

2. In the statement of claim filed on behalf of workmen it has been alleged that there is post of Special Assistant in the Bank and the said post is created in terms of definite promotion policy circulated by bank vide Staff Circular No. 3919 dated 23-10-92 and understanding dated 27-3-95. The posts of special assistants are filled through transfer of existing willing Special Assistants and the willing clerks after interview for the post as per bank's policy given in Chapter II of Staff Circular No. 3919 dated 23-10-92. The management of the bank created as many as 51 vacancies of special assistants in new branches in U.P. Zone as per bank's policy vide staff circular No. CIR/246 dated 11-8-95. As per paragraph 2.6, 2.7 and 2.8 of Chapter II of Staff Circular No. 1319 dated 23-10-92 the management had to accede the desired transfer from existing special assistants and clerks in the zone. The bank while issuing aforesaid circular dated 11-8-95 invited application denying senior clerks to apply for the posts from serial No. 1 to 51 and allowed only existing special assistants to apply. The senior clerks were denied to apply for those vacancies and therefore the bank could not fill up as many as 25 vacancies of special assistant because no existing special assistant was willing for these remaining vacancies. The same were recirculated vide bank's circular No. DP/20/LKO/IR/246 dated 5-2-96. The clerk who were willing to become special assistant in the above vacancies and were working temporarily for the last several months identified vacancies of special assistants have been denied the opportunity of being special assistants. In the end it has been prayed that the management of the bank be ordered to

issue circular as of 11-8-95 to enable the clerks in the zone to submit the applications on the prescribed form for the 51 newly created vacancies as circulated vide circular No. DP|ZO|LKO|IR|246 dated 11-8-95 to give them full and fair opportunity to become special assistants in terms of promotion policy as per staff circular No. 3919 dated 23-10-1992. Thus it has been prayed that the reference should be decided in favour of the workmen.

3. The management of Union Bank of India has filed written statement in which it has been contended that the workmen who are alleged to have been aggrieved by the Union of the employees of the bank never approached the authority of the bank for giving them promotion against a post of special assistant which were circulated vide circular dated 11-8-95. It has been alleged that 51 vacancies which were against 51 posts were to be filled from special assistants only who had preferential right over the clerks and the end vacancies were circulated later on to be filled from the eligible senior clerks/clerks of the bank. It has been alleged that circular was issued according to the promotion policy as agreed between the management of the bank and the Employees Union and the bank did not violate the promotion policy at all. It has been alleged that the claim filed on behalf of the workmen is misconceived and the reference should be decided in favour of the management.

4. Rejoinder has been filed by the workman in response to the written statement filed on behalf of the bank in which the allegations made in the statement of claim have been reiterated.

5. On behalf of the workman Sri Ram Shankar Verma W.W. 1 and Sri Ved Prakash Dwivedi W.W. 2 have been examined. 7 documents Ex.W-1 to W-7 have been filed on behalf of the workman. The management examined Sri G.K. Mishra an officer of the bank as M.W. 1.

6. I have heard the representatives for both the sides and have gone through the record of the case. It is admitted case of the parties that promotion policy as contained in staff circular No. 3913 dated 23-10-92 was circulated amongst the employees of the bank and was binding on the management of the bank and employees of Union Bank, as it was based on an agreement made between the management of the bank and All India Union Bank Employees Association. The contention of the management is that aforesaid settlement regarding promotion policy was modified by a subsequent agreement. The management has further filed photocopy of the agreement which is Ext. M-1 on record. This agreement has been made between the same parties which had made the previous agreement regarding promotion policy which was circulated by staff circular No. 3913 dated 23-10-92. This promotion policy as circulated vide circular dated 23-10-92 stands modified by the subsequent

agreement made between the Union of the employees and the management in its meeting held on 31-12-93 and 15/16-12-94. In item No. 9 of the aforesaid agreement it is provided as under :—

The matter regarding amendments to the Transfer Policy vis-a-vis selection process for Special Assistants in the light of Industrial Dispute raised before ALC(C) Hyderabad, was discussed. It was felt that the procedure laid down in this regard was to be followed uniformly by all the Zonal Offices. For this purpose, it was decided to inform all Zonal Offices that whenever a new post of Special Assistant is created at the existing branches, the same should be filled in by inviting applications from the eligible Special Assistants. In case any Special Assistant applies in response to this circular, he may be given a preference as stated in the promotion policy. Thereafter, the end vacancy should be filled in by following the procedure laid down in staff Circular No. 3913 dated 23-10-92.

From the contents of item No. 9 of the aforesaid subsequent agreement it is clear that it was agreed between the management of the Bank parties and All India UPBEA that all Zonal Offices of the bank should be informed that whenever a new post of Special Assistant is created at the existing branches, the same should be filled in by inviting applications from the eligible special assistants. In case any special assistant applies in response to this settlement he may be given preference as stated in the policy, thereafter, the end vacancy should be filled in by following procedure laid down in staff circular No. 3913 dated 23-10-92.

It appears that the bank issued circular dated 11-8-95 inviting applications from special assistants only against newly created posts of special assistants in accordance with the agreement made between the management of the bank and employees union as mentioned above. Thus it appears that the management of Union Bank of India has not violated the promotion policy of the bank dated 23-10-92 which stands modified by subsequent agreement made between the management of the bank, and union of the employees.

7. The authorised representative for the workman has admitted the genuineness of the agreement as contained in Ext. M-1 filed by the management. His contention is that aforesaid agreement was not circulated amongst the employees of the bank, hence it was not binding on the employees of the bank. After going through the record of the case I do not find any force in this contention. When the Union of the bank employees at the national level entered into an agreement with the management of the bank and a decision was taken that all

Zonal Offices should be informed to follow uniform procedure of the promotion policy as agreed in the subsequent agreement it appears that all Zonal Offices were informed accordingly. Such agreement was binding on all the employees of the bank because it was signed by their representatives and the representatives of the management. In National Engineering Industries Limited versus State of Rajasthan and others 2000 Lab IC 260 at page 272 Hon'ble Supreme Court has referred to its earlier decision given in Herbertsons Limited vs. Workmen (1977) Lab IC 162 and has observed as under :—

This court referred in great detail to the provisions of Section 2(k), 2(p) and 18(1) of the Act and noticed the decision of this court in Herbertsons Limited vs. Workmen 1977 Lab IC 162 where this court had said that when a recognised Union negotiates with an employer the workers as individuals do not come into the picture. It is not necessary that each individual worker should know the implications of the settlement since a recognised Union which is expected to protect the legitimate interests of labours enters into a settlement in the best interests of labours. This would be the normal rule. There may be exceptional cases where there may be allegations of malafide fraud or even corruption or other inducements. Put in the absence of such allegations a settlement in the course of collective bargaining is entitled to due weight and consideration.

From the aforesaid observations of the Hon'ble Supreme Court it is clear that the aforesaid agreement/settlement made between the Union of the employees of the bank and the management of the bank is binding on the employees of the bank also because that appears to have been made in the best interest of the employees of the bank as well as management of the bank so that there may be uniformity in the procedure of the promotion policy through out the whole country. In these circumstances the workmen on whose behalf this dispute has been raised cannot be allowed to say that the aforesaid agreement made between the union of the employees of the bank and the management of the bank which has modified the promotion policy dated 23-10-92 is not binding on them specially when there is no allegation that the aforesaid agreement has been obtained by fraud or is invalid on any ground.

8. In view of above considerations I hold that the management has not violated the promotion policy which was modified subsequently by an agreement made between the Union of the employees of the bank and the management of the bank. I, therefore, further hold that the workmen

involved in the case are not entitled to get relief in pursuance of this reference.

9. The reference is, therefore, answered accordingly.

R. P. PANDEY, Presiding Officer

नई दिल्ली, 30 मार्च, 2001

का.आ 826.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इंडियन बैंक के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय चेन्नई के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-3-2001 को प्राप्त हुआ था।

[स. एल-12012/149/99-आई आर (बी-II)]

सी. गंगाधरन, अवर सचिव

New Delhi, the 30th March, 2001

S.O. 826.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal/Labour Court, Chennai as shown in the annexure in the Industrial Dispute between the employers in relation to the management of Indian Bank and their workman, which was received by the Central Government on 28-3-2001.

[No. L-12012/149/99-IR(B-II)]

C. GANGADHARAN, Under Secy.

#### ANNEXURE

BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL-CUM-LABOUR  
COURT, CHENNAI

Friday, the 16th March, 2001

PRESENT :

K. KARTHIKEYAN, Presiding Officer

Industrial Dispute No. 255/2001

(I.D. No. 267/99 in Tamil Nadu Industrial  
Tribunal)

BETWEEN

The General Secretary,  
Indian Bank Employees Association,  
Choolaimedu, Chennai ... Claimant|I Party

AND

The General Manager,  
Indian Bank,  
Chennai. ... Management|II Party

**APPEARANCE :**

For the Claimant : Sri R. Rengaramanujam,  
Advocate

For the Management : M/s. Aiyar & Dolia,  
Advocates

Reference : Order No. L-12012/149/99-IR (B-II)  
dt. 6-10-1999 Govt. of India, Ministry  
of Labour, New Delhi.

This dispute on coming up before me for final hearing on this day the 16th March, 2001, upon perusing the reference and in the absence of Claimant/I Party and his counsel and in the absence of II Party, on perusal of the available records for consideration, his Tribunal pass the following :—

**AWARD**

This reference by the Central Government in exercise of the powers conferred by Clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947, in respect of dispute between Sri M. Srinivasan and the General Manager, Indian Bank, Chennai, Management mentioned as Schedule appended to the order of reference.

The Schedule reads as follows :—

“Whether the demand of the Indian Bank Employees Association to reinstate Shri M. Srinivasan with all benefits is justified? If not, what relief he is entitled?”

This reference has been originally made to Tamil Nadu Industrial Tribunal for adjudication by the Central Government, Ministry of Labour by its above mentioned order. It was taken on file there as I.D. No. 267/99 and notices were sent by that Tribunal to both the parties in this dispute for the hearing on 17-12-99. In pursuance of the issuance of the notices M/s. Aiyar & Dolia, Advocates appeared, by filing vakalat on behalf of the management/II Party on 17-12-99. Subsequently, the I Party/Claimant appeared along with his counsel Sri R. Rengaramanujam and filed vakalat on 24-4-2000. Subsequent to that the case was adjourned there by the Tribunal for so many hearing extending time for the Claimant to file Claim Statements, till it was transferred as per the orders of the Central Government to the file of this Court for adjudication. This case was received on transfer from the Tamil Nadu Industrial Tribunal and was taken on file on 24-1-2001 as I.D. No. 255/2001. Notices were sent to the counsel on either side by Registered Post by this Tribunal, informing them about the transfer of this Industrial Dispute from the Tamil Nadu Industrial Tribunal to this Tribunal, with a direction to appear in this Court with their respective parties for hearing on 9-2-2001. The notices sent by this Tribunal

by Registered Post to the counsel on either side were duly served. For the first hearing in this Tribunal on 9-2-2001, both the parties and the counsel for the I Party were not present. The counsel for the II Party alone was present. So, for filing the Claim Statement with documents of I Party/Claimant, time was extended upto 23-2-2001. On 23-2-2001 also the counsel for the II Party alone was present and both the parties and the counsel for the I Party were not present. Then a final notice to the I Party direct was ordered to be issued by Registered Post with acknowledgement due for hearing on 16-3-2001 i.e. today for filing the Claim Statement. That Registered notice was also duly served on the I Party/Claimant, the General Secretary of Indian Bank Employees Association, Chennai, direct. When this case was taken up to-day the I Party/Claimant and his counsel were not present as usual. The Claim Statement of the I Party with documents was also not filed. There is no representation on the side of the I Party. The counsel for the II Party alone is present. The postal acknowledgement, for having received notice sent by this Tribunal by Registered Post direct to the I Party/Claimant, is also received. Under such circumstances, it has to be decided whether to keep the matter pending expecting the I Party/Claimant to file Claim Statement in future for proceeding with the enquiry for the industrial dispute referred to by the Ministry for adjudication.

2. A perusal of the entire records clearly shows that though the I Party/Claimant entered appearance through their counsel and have filed Vakalat as early 24-4-2000 itself in this case, when it was pending before the Tamil Nadu Industrial Tribunal and though time and again the said Tribunal has extended time for the I Party/Claimant to file Claim Statement with documents they have not taken care to file any Claim Statement to prosecute this industrial dispute for adjudication. Subsequently, when this case has been transferred to this Court from the file of Tamil Nadu Industrial Tribunal as per orders of the Central Government and taken on file, notice were sent by Registered Post first to the counsel on record and then to the party direct and the same were duly received on them neither the counsel nor the I Party/Claimant has chosen to appear before this Tribunal and to make any representation, in spite of the fact that time has been extended till this date for filing Claim Statement for the I Party/Claimant. The Union which espousing the cause of the aggrieved Workman Sri M. Srinivasan, has not made any attempt to file the Claim Statement. No one has cared to appear before this Tribunal either in person or through the counsel on record and to make any representation in respect of this industrial dispute and about their intention to prosecute the same. Under such circumstances it is evidently clear that the I Party/Claimant is not at all interested in prosecuting this industrial dispute against the II

Party|Management and hence they have remained absent all these days ever since the beginning. From this, it can be presumed that, as on date, no industrial dispute is in existence for the I Party|Claimant to prosecute on behalf of the Workman concerned, mentioned in the reference and hence, there is inaction on the part of the I Party|Claimant. So, this Tribunal comes to a conclusion that no useful purpose will be served in keeping this reference pending further, with a hope that the I Party|Claimant will be prosecuting this case on behalf of the aggrieved Workman mentioned in the reference. Hence, this reference is closed and consequently, the industrial dispute is dismissed for want of prosecution. No Cost.

(Dictated to the Stenographer and transcribed and typed by him and corrected and pronounced by me in the open court on this day, the 16th March, 2001)

K. KARTHIKEYAN, Presiding Officer

नई दिल्ली, 26 मार्च, 2001

का.आ. 827.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार द्वारा इंडिया रेडियो के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नई दिल्ली के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-3-2001 को प्राप्त हुआ था।

[सं. एल-42011/38/97-आई आर (डी यू)]

कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 26th March, 2001

S.. 827.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal|Labour Court, New Delhi, as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of All India Radio and their workman, which was received by the Central Government on 26-3-2001.

[No. L-42011/38/97-IR(DU)]

KULDIP RAI VERMA, Desk Officer

#### ANNEXURE

BEFORE SHRI K. S. SRIVASTAV, PRESIDING OFFICER, CENTRAL GOVT. INDUSTRIAL TRIBUNAL, NEW DELHI

I.D. No. 136/98

In the matter of dispute between :  
Shri Ram Charan Singh, Labour  
through General Secretary,  
Delhi Labour Union,  
DLU, Aggarwal Bhawan,  
G. T. Road, Tis Hazari,  
New Delhi-110053.

#### Versus

The Director,  
All India Radio  
(Akashwani & Doordarshan),  
C. E. (N.Z.) Jam Nagar House,  
New Delhi-110011.

#### APPEARANCES :

Shri Surinder Bhardwaj for the workman.  
Shri B. K. Aggarwal for the Management.

#### AWARD

The Central Government in the Ministry of Labour has sent this reference under Section 10(1) (d) and (A) of the Industrial Disputes Act, 1947 (hereinafter referred to as Act) vide Order No. L-42011/38/97-IR(DU) dated 28-5-98 for the adjudication of the Industrial Dispute on the following terms :—

“Whether the action of the management of All India Radio in terminating the services of Shri Ram Charan Singh, Labourer w.e.f. 16-8-96 is just, fair and legal? If not, to what relief the concerned workman is entitled to?”

2. In the statement of claim filed on behalf of the workman it is stated by the workman that he had joined his services under the Management w.e.f. 27-11-95 as Labourer and he was being treated as monthly paid|muster roll worker and was being paid his wages much less than those fixed and revised under the minimum wages Act. It is further stated by the workman that his last drawn wage was Rs. 1200/- PM while his counter parts who were doing identicle work were treated as regular employees and were paid their salaries in the pay scale of Rs. 750-940 with allowance and other privileges like uniform, E.L., C.L. and other holidays. He has further stated that the job against which he was working was of a regular and permanent nature. His service record had remained unblemished and uninterrupted. The workman has assiled legality of his termination from service on the followng grounds :—

1. There was no rule which could be framed by the Managemnt for governing service conditions of the muster roll employees when the management had more than 100 persons in its employment and thus Model standing Orders framed in the Industrial Employment Standing Orders Act, 1946 were applicable and workman and acquired status of permanent employee after completing 90 days of continuous employment from the date of joining his services.
2. The termination is violative of Section 25-F. GH and N of the Act and rules



76, 77 and 78 of the Industrial Disputes Central Rules 1957, on the following reason :

- (a) principles of last come first go not followed. Workman was meted out with hostile discrimination since junior to him were retained in the service..
- (b) no seniority list was displayed. No notice was given to him. He was also not given any notice pay or retrenchment compensation at the time of the termination of the services.
- (c) Workman had completed 240 days of continuous employment and had acquired status of permanent employee under the Act. No act of misconduct by the workman was disclosed for terminating his services. He was not even served with any charge sheet nor any domestic enquiry was conducted.
- (d) The termination is violative of Section 30 of Delhi Shops and Establishment Act, 1954.

3. The workman has stated that he remained unemployed since 16-8-96, the date of termination of his service. The demand notice was sent to the management vide registered letter communicated on 31st August, 1996 but the reply which was received by the workman on 10-9-96 was unsatisfactory. The conciliation proceeding initiated thereafter could not succeed. Hence this claim.

4. Management has failed to file written statement in the case. Vide order dated 28-8-98 case was directed to be proceeded ex parte against the Management.

5. The Management's application firstly moved for the first time for setting aside the order dated 28-8-98 was rejected vide order dated 10-3-2000. The second application of the management for setting aside order dated 28-8-98 was also rejected vide order dated 13-10-2000.

6. The workman has filed his affidavit in evidence in support of his case in support of his allegations made in the statement of claim.

7. Arguments on behalf of the workman were heard.

8. The whole of the allegations of the workman made in the statement of claim assailing the legality of the action of the management terminating his services w.e.f. 16-8-96 goes uncontroverted because of the failure of the Management to file written statement in the case. It is only sufficient to accept the allegations of the workman made in the statement of claim assailing the legality of his

termination. However, workman has filed his affidavit in evidence and has supported whole of the allegations made in the statement of claim in the affidavit. He could not be cross-examined on behalf of the management on his affidavit. Whole of his statement given in the affidavit goes uncontroverted. The affidavit of the workman has properly been verified and duly sworn before the competent authority and hence in my view its authenticity cannot be doubted. In view of the fact the workman's contention about the assailing the legality of the termination from the service is accepted. The action of the management terminating the workman's services with effect from 16-8-96 is thus neither found legal nor just. The termination of the workman from the services thus is set aside and it is found that the workman is entitled for his reinstatement in the service from the date of his termination. As regards the entitlement of the back wages by the workman I find myself in agreement with the workman's contention that burden for proving workman being gainfully employed was on the management which burden the management has completely failed to discharge. However, the workman has categorically stated in the statement of claim that he is unemployed since 16-8-96. This assertion of the workman I find cannot be disbelieved.

9. In view of the fact I find that the workman is entitled for back wages throughout from the date of his termination from the service till the date of his reinstatement.

10. The term of reference is answered accordingly and award is also given in the like manner.

Dated 21-3-2001

K. S. SRIVASTAV, Presiding Officer

नई दिल्ली, 28 मार्च, 2001

का.आ. 828.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार खादी ग्रामोद्योग एण्ड विलेज इंडस्ट्रीज कमिशन के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नई दिल्ली के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-3-2001 को प्राप्त हुआ था।

[सं. एन-42011/56/99-आई आर (डी यू)]

कुलदीप राय वर्मा, डेप्युटी अधिकारी

New Delhi, the 28th March, 2001

S.O. 828.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal/Labour Court, New Delhi, as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Khadi Gramodyog and

Village Industries Commission and their workman, which was received by the Central Government on 28-3-2001.

[No. L-42011/56/99-IR(DU)]  
KULDIP RAI VERMA, Desk Officer

अनुबन्ध

समक्ष श्री केशव शरण श्रीवास्तव : पीठासीन अधिकारी : केन्द्रीय  
सरकार औद्योगिक अधिकरण : नई दिल्ली

ओ.वि.स. 214/99

महासचिव,

खादी ग्रामउद्योग भवन कर्मचारी मंच,

24-रीगल बिल्डिंग,

कनाट सर्कस,

नई दिल्ली

बनाम

अध्यक्ष,

खादी ग्रामउद्योग भवन,

24-रीगल बिल्डिंग.,

कनाट प्लेस,

नई दिल्ली-110001

उपस्थिति : कर्मकार की तरफ से कोई नहीं ।

श्री जगत अरोड़ा विपक्ष की ओर से ।

अधिनियम

केन्द्रीय सरकार के श्रम मंत्रालय के लिखित आदेश संख्या एल-42011/56/99/आई आर (डी यू) दिनांकित 27-10-1999 अतर्गत धारा 10(1)(घ) व 10(क) औद्योगिक विवाद अधिनियम 1947 यह औद्योगिक विवाद निम्नलिखित विवादास्पद प्रश्न के न्यायनिर्णयन हेतु निर्दिष्ट किया गया है ।

"Whether the action of the H.O., Khadi Gramodyog and Village Industries Commission, Bombay to transfer the class II employees from the Head Quarter to the establishment of Manager, Khadi Gramodyog Bhawan, New Delhi and not granting the promotion to eligible class IV employees of the establishment of Khadi Gramodyog Bhawan New Delhi is legal and justified ? If not, what relief the workman Union are entitled and from what date?"

2. आदेश प्राप्ति के पश्चात् यह विवाद पजीकृत किये जाने के पश्चात् आदेश दिनांकित 3-12-99 द्वारा अभय पक्ष को नोटिस अपने अपने पक्ष वाद में प्रस्तुत करने हेतु दिया गया । तत्पश्चात् वाद में विभिन्न तिथियां नियत की गई परन्तु कर्मकार की ओर से कोई वाद में अपने पक्ष प्रस्तुत करने हेतु उपस्थित नहीं हुआ । प्रबन्ध तंत्र की ओर से अधिकृत प्रतिनिधि जगत अरोड़ा व रजत अरोड़ा अनेक तिथियों पर उपस्थित होने रहे । आदेश पत्र के अवलोकन से विदित होता है कि कर्मकार को कई तिथियों पर नोटिस द्वारा रजिस्टर डाक बाद में भी दी गई अपना पक्ष प्रस्तुत

करने हेतु परन्तु कर्मकार की ओर से कोई उपस्थित नहीं हुआ अतः दिनांक 12-2-2001 के आदेश द्वारा कर्मकार के विरुद्ध एक तरफा कार्यवाही किये जाने का आदेश देने हुए अधिनियम पारित करने हेतु सुरक्षित किया गया ।

3 चूक वाद में कर्मकार की ओर से कोई पक्ष उसके नोटिस देने के पश्चात् भी प्रस्तुत नहीं किया गया अतः वाद में बिना कोई विवाद अधिनियम दिये जाने की औचित्य होता है और अधिनियम इसी प्रकार पारित किया जाता है ।

केशव शरण श्रीवास्तव, पीठासीन अधिकारी

दि. 26-3-2001

नई दिल्ली, 28 मार्च, 2001

का आ. 829 —औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसूचन में, केन्द्रीय सरकार इंडियन इम्मनोलॉजिकलस के प्रबंधन के संबंध निरीजकी और उनके कर्मकारों के बीच, अनुबन्ध में निदिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण नं.-1, हैदराबाद के रचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-3-2001 को प्राप्त हुआ था ।

[स एल-42011/18/98-आई आर (डी यू)]

कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 28th March, 2001

S.O. 829.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal/Labour Court No. 1, Hyderabad, as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Indian Immunologicals and their workman, which was received by the Central Government on 28-3-2001.

[No. L 42011/18/98-IR(DU)]  
KULDIP RAI VERMA, Desk Officer

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL-1 AT  
HYDERABAD

PRESENT :

Sri Syed Abdullah, B.Sc., B.L Industrial Tribunal-I.

Dated : 27th February, 2001

INDUSTRIAL DISPUTE NO 49 OF 1999

BETWEEN

The General Secretary,  
Indian Immunologicals  
Employers Union, Visakhapatnam,  
Gachibowli, Hyderabad-19.

AND

The General Manager,  
Indian Immunologicals,  
Rakshapuram, Gachibowli,  
Hyderabad-19.

Respondent.

APPPEARANCES :

M/s G Vidya Sagar and P Sudheer Rao, Advocates  
for Petitioner.

M/s. P Nageswara Sree and C Niranian Rao, Advoca-  
tes for Respondent.

## AWARD

The Government of India, Ministry of Labour, New Delhi by its Order No. L-42011/18/98-IR(DU), dated 3-8-1999 referred the following Industrial Dispute under Section 10(1) (d) of Industrial Disputes Act, 1947, to this Tribunal for adjudication :

"Whether the demand of the Indian Immunologicals Employees Union for payment of wages at rates twice the ordinary wages for working on 23-1-1997 which was declared as National Holiday by the Government of India but not by the State Govt. of A.P., by the management of Indian Immunologicals Limited, Hyderabad is justified?

If so, to what relief the workmen concerned are entitled?

Both parties appeared and filed their respective pleadings.

2. The General Secretary of Employees Union filed claim statement which is briefly stated as under. The petitioner-Union is a registered under the Trade Unions Act. The union raised an Industrial Dispute before the Conciliation Officer and it ended in failure which resulted in this reference.

3. The facts of the case are that the respondent is a public Sector undertaking established by Government of India and it has been following the rules and regulations framed by Government of India. The Government of India declared National Holiday on 23-1-1997 being birthday of Netaji Subhash Chandra Bose to its institutions, offices and banks etc. In turn the State Public Sector units have also declared holiday on that day. But the respondent has not declared on that day and they have extracted the work from the employees. So the action of the respondent in not declaring holiday on that day is illegal, arbitrary and unjust. The union gave several representations to the management to pay the twice wages as it extracted the work from the employees on that day. Its parent organisation i.e. National Dairy Development Board declared holiday on 23-1-1997 but the respondent had not declared the holiday which is illegal and arbitrary. The management has declared the Holidays as per Negotiable Instruments Act. Even the Management should have declared the holiday on 23-1-1997 under Negotiable Instruments Act. But it was not done. So the employees who worked on that day are entitled to double wages on that day. Hence the respondent may be directed to pay the double wages to the employees as it extracted the work from them.

4. The respondent in its counter stated that the company is having its own Certified Standing Orders and the service conditions of the workmen are governed by the same. As per Clause 17 of it, the holidays of the company are governed by A.P. National and Festival Holidays Act. The respondent-company has been declaring the holidays by following the said Act from the date of certification of the Standing Orders. It is correct that the Government of India declared Holiday on 23-1-1997 as a mark of respect to late Netaji Subhash Chandra Bose's birth day. The said holiday is not applicable to the respondent-company as the holidays are governed by the provisions of A.P. National and Festival Holidays Act in terms of Clause 17 of certified Standing Orders of the Company. The union represented the matter to the Management for declaring the holiday on that day and the management in turn informed the union that the said holiday is not applicable to the company. Aggrieved by the action, the union raised a dispute before the ACL(C) for conciliation but it ended in failure. The Ministry of Labour, Government of India in turn refused to refer the dispute on the ground that the State Government did not declare 23-1-1997 as holiday. The union filed a Writ Petition and the Hon'ble High Court directed the Government of India to refer the dispute to this Tribunal for adjudication. The rules and regulations framed by the Government of India with regard to the service conditions are not applicable to the employees of the respondent-company. Hence the holiday declared by the Government of India on 23-1-1997 is not applicable to the company as it is not declared as holiday by the Government of A.P. The Indian Immunologicals has not its own service rules and regulations and no way connected to the parent organisation i.e. National Dairy

Development Board with regard to holidays. Hence the allegation of the petitioner that the respondent extracted the work from the employees on 23-1-1997 is not correct and the same is hereby denied. In fact the respondent is a factory under Factories Act and its holidays are governed by separate statute i.e. A.P. National and Festival Holidays Act and Negotiable Instruments Act is applicable only for offices. Hence prayed to dismiss the claim of the union.

5. The point for adjudication is whether the demand of the petitioner-union for payment of wages at rates twice the ordinary wages for working on 23-1-1997 which was declared as National Holiday by the Government of India but not by the State Government of A.P. by the respondent-company is justified? If so, to what relief the workmen concerned are entitled?

6. To substantiate the claim of the union, the General Secretary of the union examined himself as WW1 reiterating the facts stated in the petition. He further deposed that on 23-1-1997 since all the employees of the company worked, they are entitled for wages at the rate of double wages. A representation was given for payment of double the wages since they worked on 23-1-1997. The Conciliation Officer reported that the conciliation ended in failures. Ex. W1 is representation was given to the Management to declare 23-1-1997 as holiday and since work was extracted from the workers on that day, the respondent should have paid the double wages to the employees. Ex. W2 representation was given to the A.C.L. for conciliation and to direct for payment of double wages in lieu of holiday on 23-1-1997.

7. In the cross examination it was elicited from this witness that there are certified standing orders to the company, and whether he is aware that holidays are declared as per clause 17 of Standing Orders and that the State Government has not declared holiday on 23-1-1997. His answer is that he is not aware of it. He further stated that he signed in the minutes of Ex. M1 certified standing orders of the company registered before the Regl. Labour Commissioner. As per Ex. M2 circular the Government had rejected for referring this dispute to the Tribunal. He further stated that in the previous years no holiday was given for the birth day of Netaji Subhash Chandra Bose.

8. The respondents examined its Executive HRD as MW1 who reiterated the facts stated in the counter. He deposed that for the year 1997 the Government of A.P. declared list of public holidays under A.P. National and Festival Holidays Act which is Ex. M3. After receipt of Ex. M3 list, it was discussed with the union and with the consent, the holidays are declared for the calendar year and fixed before commencement of the calendar year. Ex. M4 is the list of holidays for the year 1997 and Ex. M5 is the list of holidays of the year 1997. The signature of the General Secretary of the union was obtained in the list of holidays declared for the calendar year. As per Agreement Ex. M6 between the management and the union, the workmen are entitled for 10 National and Festival Holidays for each calendar year. To his knowledge the ECIL Management had not declared holiday for Netaji Subhas Chandra Bose Birthday on 23-1-1997. The Government of A.P. has not declared holiday on that day. Hence demand of the union may be rejected.

9. In the cross examination he deposed that prior to registration of the respondent-company it was a unit of National Dairy Development Board. Since the company comes under the purview of Factories Act, it is not covered by Negotiable Instruments Act. A suggestion was given to him that all the Public Sector companies have declared 23-1-97 as Holiday and since the workers worked on that day, they are entitled for double the wages. But this suggestion was denied by him.

10. The dispute between the union and the Management is with regard to declaration of holiday on 23-1-1997 and since the respondent management had not declared the said days as holiday and not paid the wages to the workers the union claimed the relief to order payment of double wages.

11. As per Article 43 of Indian Constitution, it is the duty of the state to make laws to ensure all workers a reasonable and adequate facilities for full enjoyment of leisure and all such social and cultural opportunities. Further to have

living wage etc. to the workers, the State shall endeavour to secure all suitable legislation or make regulations or in any other way to all work i.e. agricultural or industrial living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure etc. Keeping in view of these directives of Constitution. The A.P. National Festival and Holidays Act (Act No. 32 of 1974) R/W Rule 3 of A.P. Factories and Establishments (National Festival and other Holidays) Rules, 1974, have been framed and on the basis of said Legislation every year the Government of A.P. has been declaring the holidays in calendar year both national and other festival holidays for the enjoyment of leisure to the Industrial Workers and thereby the Government has issued Ex. M3 list of holidays, in which 23-1-1997 was not shown as National Holiday. As per Ex. M1 Certified Standing Orders which were signed by both the management and union were registered before the appropriate authority, vide Clause 17, it is incumbent to follow A.P. National Holidays and Festival Holidays subject to any statutory provisions. The management has discretion to refuse any leave to its workers on those days. In view of clear commitment between the union and the management, it has a binding effect on both sides. Apart from it, memorandum of understanding covered by Ex. M6 entered into under Section 12(3) of I.D. Act between them confirming that National and Festival Holidays are to be followed. So the union is estopped from raising the demand or demanding double wages from the Management on the ground that 23-1-1997 was not declared as holiday and that the work was extracted. Ex. M1 certified standing orders applies to the employees governing the service conditions so also for the entitlement of holidays and leave etc. Apart from it under Ex. M6 agreement was entered into under Section 12(3) of I.D. Act reiterating its commitment. So under any stretch of any interpretation, the union cannot raise a dispute for not declaring the holiday and as well as to pay double wages.

12. May be that for the earlier period the management by exercising its discretion, had declared 14-4-93 and 14-4-1995 as National Holidays as a mark of respect to the National Leader Dr. B. R. Ambedkar, it cannot be a precedent at all or gives the union right to demand for declaring the said day as a National Holiday. MW1 in his evidence categorically stated that soon after receipt of list of National Holidays from the Government of A.P. the consent has been taken from the employees union to chose which of the 10 National and Festival Holidays in a calendar year will be finalised before the commencement of calendar year itself. When such practice is prevailing and following the statute A.P. National and Festivals Act, 1974 and its rules, it is too much to make any demand. In a decision reported in IFLR 1993 (6) Summary cases Page 29 Kerala High Court in respect of Kerala Industrial and Establishment National and Festivals Act, 1958 declaring holidays on feasts and festivals which was held that in granting holidays selecting different days as festivals it cannot be considered as invalid in view of Article 43 of Indian Constitution. On the same analogy, the decision of the management holds good. So when the Government of A.P. is bound to release the list of National Holidays choosing certain days as National Holidays and Festivals days, it cannot be given a go-bye or a departure to it, unless both the union and the management agrees to have different dates as per its convenience, it cannot go for more than 10 National Holidays and Festivals in each calendar year. The respondent-establishment may be a Public Sector Company as per the Companies Act but it has its own limitation in view of Ex. M1 Certified Standing Orders as registered under Factories Act. Simply for the reason that the Public Sectors follow the Central Government declaring the holiday on 23-1-1997 to be an holiday in honour of National Leader, it cannot be compelled the management to declare the particular day as a holiday with wages. There is no justification for the union to ask the management for payment of double wages on that day. The union has not come forward with any rebuttal evidence to show that on 23-1-1997 there was production in the factory. During the trial, the union could have asked the management to produce production register to find out truth or otherwise. It did not take such steps to falsify the version, so the version of MW1 cannot be considered as untrue. The dispute espoused by the union seeking demand to pay double wages to the employees for not declaring 23-1-1997 as holiday is devoid of merits, and such demand is untenable.

13. For the aforesaid discussion the claim of the petitioner-union is not justified and it is dismissed.

14. In the result, an award is passed holding that the respondent-management is justified in not declaring 23-1-97 as National Holiday in view of the holidays declared under A.P. National Holidays and Festivals act, 1974 and its rules. The petitioner is not entitled to any relief. In the circumstances of the case, there is no order as to costs.

Dictated to the Steno-typist, transcribed by him, corrected by me and given under my hand and the seal of this Tribunal on this the 27th day of February, 2001.

SYED ABDULLAH, Industrial Tribunal-I, HYD.

#### Appendix of Evidence

Witness examined for Petitioner :	Witness Examined for Respondent :
WW1 E. Malla Reddy	MW1 D. V. Reddy
Documents marked for the Petitioner :	
Ex. W1 Representation of the union dated 25-1-1997 to the Management.	
Ex. W2 Representation of the Union dated 18-2-1997 to the ACL (Central), Hyderabad.	
Documents marked for the Respondent:	
Ex. M1 Certified Standing Orders of the Company.	
Ex. M2 Letter of Government of India dated 17-4-1998 refusing to refer the dispute for adjudication.	
Ex. M3 Notification of Government of A.P. declaring the holidays in 1997.	
Ex. M4 Holiday list in 1996 declared by the respondent	
Ex. M5 Holiday list in 1997 declared by the respondent.	
Ex. M6 Memorandum of settlement entered into under Section 12(3) of I.D. Act.	

नई दिल्ली, 28 मार्च, 2001

का.आ. 830 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार खादी एण्ड विलेज इण्डस्ट्रीज कमीशनर के प्रबंधन के संबद्ध नियोक्तों और उनके कार्यकारी के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नई दिल्ली के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-3-2001 को प्राप्त हुआ था।

[सं. एन-42011/12/99-आई आर (डी यू)]

कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 28th March, 2001

S.O. 830.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal [Labour Court, New Delhi, as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Khadi and Village Industries Commissioner and their workman, which was received by the Central Government on 28-3-2001.

[No L-42011/12/99-IR(DU)]

KULDIP RAI VERMA, Desk Officer

## अनुबंध

समक्ष श्री केशव शरण श्रीवास्तव/पीठासीन अधिकारी :

केन्द्रीय सरकार औद्योगिक अधिवारण : नई दिल्ली

औ.वि.सं. : 184/99

महाप्रबंधक,

खादी ग्रामउद्योग भवन कर्मचारी संघ,

24, रीगल बिल्डिंग,

कनाट सर्कस,

नई दिल्ली-110001

बनाम

अध्यक्ष,

खादी ग्राम उद्योग भवन,

24, रीगल बिल्डिंग,

कनाट सर्कस,

नई दिल्ली-110001

उपस्थिति: कर्मकार की ओर से कोई उपस्थित नहीं हुआ।

श्री जगत अरोरा प्रवक्ता के ओर से।

अधिनिर्णय :

केन्द्रीय सरकार के श्रम मंत्रालय के लिखित आदेश दिनांकित 27-7-1999 संख्या एन-42011/12/99/आई आई (डी यू) अन्तर्गत धारा 10(1)(घ) ध 10(क) औ. विवाद निम्नलिखित विवादस्पद प्रश्न, के अधिनिर्णय हेतु निर्देशित किया गया है।

"Whether the office order No. 1762 dated 20-5-96 and office order No. 1792 dated 4-4-97 issued by khadi and village Industries Commissioner/Khadi Gramodyog Bhawan, New Delhi in stopping next higher scale of pay to those staff members under regular establishment, trading operation schematic and S&T, who have completed 15 years of continuous service, in the same post is legal and justified? If not, to what relief the workmen are entitled?"

2. आदेश की प्राप्ति के पश्चात् यह विवाद पंजीकृत किये जाने के पश्चात् आदेश दिनांकित 22-11-99 द्वारा अभय पक्ष को नोटिस अपने-अपने पक्ष वाद में प्रस्तुत करने हेतु दिया गया। तत्पश्चात् बाद में, विभिन्न तिथियां नियत की गईं परन्तु कर्मकार की ओर से कोई वाद में अपने पक्ष प्रस्तुत करने हेतु उपस्थित नहीं हुआ। प्रवक्ता की ओर से अधिकृत प्रतिनिधि जगत अरोरा व रजत अरोरा अनेक तिथियों पर उपस्थित होते रहे। आदेश पक्ष के अवलोकन से विदित होता है कि कर्मकार को कई तिथियों पर नोटिस द्वारा रजिस्टर डाक बाद में भी दी गई अपना पक्ष प्रस्तुत करने हेतु परन्तु कर्मकार की ओर से कोई उपस्थित नहीं हुआ अतः दिनांक 12-2-2001 के आदेश द्वारा कर्मकार के विरुद्ध एकतरफा कार्यवाही किये जाने का आदेश देते हुये अधिनिर्णय पारित करने हेतु मुरक्षित किया गया।

3. चूंकि वाद में कर्मकार की ओर से कोई पक्ष उसके नोटिस देने के पश्चात् भी प्रस्तुत नहीं किया गया अतः वाद में बिना कोई विवाद अधिनिर्णय दिये जाने को औचित्य होता है और अधिनिर्णय इसी प्रकार पारित किया जाता है।

दिनांक : 26-3-2001

केशव शरण श्रीवास्तव, पीठासीन अधिकारी

नई दिल्ली, 28 मार्च, 2001

का.आ.83.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, जनरल मैनेजर, इण्डियन इम्यूनोलॉजिकल्स के प्रबंध-तंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिवारण नं. 1, हैदराबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-3-2001 को प्राप्त हुआ था।

[सं. एन-42011/12/98-आई आई (डी यू)]

कुलदीप राम वर्मा, डेस्क अधिकारी

New Delhi, the 28th March, 2001

S.O. 831.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal/Labour Court, No. I, Hyderabad, as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of General Manager, Indian Immunologicals and their workman, which was received by the Central Government on 28-3-2001:

[No. L-42011/12/98-IR(DU)]

KULDIP RAI VERMA, Desk Officer

## ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL-I AT HYDERABAD

PRESENT:

Sri Syed Abdullah, B.Sc., B.L.,  
Industrial Tribunal-I.

Dated: 27th February, 2001

Industrial Dispute No. 48 of 1999

## BETWEEN

The General Secretary,  
Indian Immunologicals Employees Union,  
Rakshapuram,  
Gachibowli,  
Hyderabad-19.

.... Petitioner

## AND

The General Manager,  
Indian Immunologicals,  
Rakshapuram,  
Gachibowli,  
Hyderabad-19.

... Respondent

APPEARANCES:

M/s. G. Vidya Sagar and P. Sudheer Rao, Advocates  
for the Petitioner.M/s. P. Nagaswara Sree and C. Niranjan Rao, Advocates  
for the Respondent.

## AWARD

The Government of India Ministry of Labour, New Delhi by its Order No. L-42011/12-8 IR(L.C.) dt. 3-8-99 referred the following Industrial Dispute under Section 10(1)(d) and 2A of Industrial Disputes Act, 1947 to this Tribunal for adjudication:

"Whether the demand of the Indian Immunologicals Employees Union for payment of wages at rates twice the ordinary wages for working on 14-4-97 which was declared as National Holiday by the Government of India but not by the State Government of Andhra Pradesh, by the Management of Indian Immunologicals Limited, Hyderabad is justified? If so, to what relief the workmen concerned are entitled?"

Both parties appeared and filed their respective pleadings.

2. The General Secretary of Employees Union filed claim statement. In brief the facts are as under: The petitioner—union is a registered Trade Union. The respondent is a Public Sector Undertaking established by the Government of India. It is bound to follow rules and regulations framed by the Government of India. On 14-4-97 happens to be birth day of Bharat Ratna Dr. B.R. Ambedkar, the Government of India had declared it as a National Holiday to its Institutions, Public Sector Organisation, Banks, Insurance Corporation, State Government Offices etc. While so, the respondent—Management had not declared Holiday on 14-4-97 to its workers on 14-4-97, however, extracted work from them. The action of the management is illegal and arbitrary. During 1995 and 1996 the management had declared it as holiday. The petitioner—Union gave several representations to the management to pay double wages to its employees for having extracted the work on 14-4-1997 eventhough the Government of India had declared it as National Holiday. The National Dairy Development Board of the respondent—Management has declared holiday on 14-4-97. The holidays declared as per the Negotiable Instruments Act are also applicable to the management. So the management should have declared the Holiday on 14-4-1997. For non-declaration of the holiday the employees are entitled for double wages. Hence prayed to adjudicate this dispute and grant relief as prayed for.

3. The respondent filed counter and in brief the averments are as under: All the petition averments are not true and denied except which are specifically admitted. The respondent—establishment is a unit of National Dairy Development Board having its own legal identity. The National Dairy Development Board was constituted by an enactment of Parliament by an Act 37 of 1987. As per Regulation 3(1)(u) a subsidiary unit means a subsidiary or unit owned by National Dairy Development Board whether managed by it or not and includes amongst the others, the Indian Immunologicals. As per Regulation 2(2) subsidiary unit shall continue to have their respective separate identity and said regulations of National Dairy Development Board shall not be applicable to any employee of any subsidiary unit of National Dairy Development Board. The respondent—establishment is a factory registered under Factories Act which has its own certified standing orders and the service conditions are governed by the same. As per clause 17 of the said Standing Orders, the holidays of the respondent—company are governed by A.P. National and Festival Holidays Act and the respondent—company should follow the said Act right from the date of certification of the said Standing Orders.

4. True that the Government of India had declared 14-4-97 as an holiday as a mark of respect to Dr. B. R. Ambedkar's Birthday. The said holiday was declared to all the Central Government Offices and other offices which comes under the purview of Negotiable Instruments Act. The said holiday declared was not applicable to the respondent—company as the holidays of the respondent are governed by the provisions of A.P. National and Festival Holidays Act in terms of Clause No. 17 of Certified Standing Orders of the Company. Though the union had requested the management to declare 14-4-97 as an Holiday but the management refused to consider it as it is not applicable to the respondent-company. Aggrieved by it, the union had raised the Industrial Dispute before the A.L.C.(C). The said dispute was ended in failure as the union and management have contradictory views and thereby failure report was forwarded to the Ministry of

Labour for further necessary action. But the Ministry at the first instance refused the matter to refer for adjudication. It did not consider the said dispute that "it is found that State Government did not declare 14-4-97 as holiday in terms of A.P. National and Festival Holidays Act and the claim of the union for double the wages for attending duty is not tenable under the standing orders." So the union had filed a Writ Petition No. 23923/98 seeking direction to the Government for referring the matter for adjudication, which was allowed by the Hon'ble High Court and accordingly the Government of India referred the matter to this Tribunal for adjudication. As a matter of fact the workman are not entitled for any holiday on 14-4-97 and the question of payment of double wages for the work done on that day does not arise. There are no merits in the present dispute. The Rules and Regulations framed by the Government of India with regard to the service conditions are not applicable to the Respondent—Company. In terms of Clause 17 of Certified Standing Orders the National and Festival Holidays are regulated in accordance with A.P. National and Festival Holidays Act. So the claim of the petitioner—union is totally baseless.

5. The point for adjudication is whether the demand of the petitioner—union for payment of wages at rates twice the ordinary wages for working on 14-4-97 which was declared as National Holiday by the Government of India but not by the State Government of A.P. by the Management of Indian Immunologicals Limited, Hyderabad is justified? If so, to what relief the workmen concerned are entitled?

6. In proof of the claim, the General Secretary of the Employees Union examined himself as WW1 who in his evidence has reiterated the averments made in the claim statement stating that since 14-4-97 was not declared as holiday by the respondent—company eventhough it was declared as holiday by the Government of India and the Management having extracted the work from the employees, the employees are to be paid with double wages. The establishment is a Public Sector, as such the rules and regulations of Government of India are applicable to it. In 1996 on the same day holiday was declared by the respondent. Ex. W1 is the circular issued by the respondent earlier declaring 14th April, 1993 as a holiday and so also Exs. W2 is the circular issued by the respondent for the holiday in the year 1995. Ex. W3 is the representation given by the union to the ALC for conciliation. Ex. W4 is the minutes stating reasons about failure of conciliation. Ex. W5 is the representation given to the Management by the union for permission to attend this case.

7. In the cross examination it is elicited from the witness that Ex. W1 is the Certified Copy of the Standing Orders and questioned him whether for the previous years any holidays are declared following clause 17 of Ex. M1 standing orders. His answer is that he is not aware of it. So also he was questioned whether he is aware that 14-4-97 was included as holiday in the list of A.P. National Festival Holidays Act for closure of the company on that day for which the answer is that he is not aware of it. So also he was suggested that he is aware that the management has been declaring public holidays following Ex. M1 Standing Orders which are included in A.P. National Festival Holidays Act. The witness admitted that he signed in the minutes of Ex. M1 when standing orders were registered before the Regl. Labour Commissioner (C) Hyderabad. He also admitted that through Ex. M2 circular, the Government of India informed that this dispute is not a fit case to be referred to the Tribunal and on that he filed a Writ Petition and as per the directions of Hon'ble High Court, this reference was made for adjudication of it.

8. As against the above evidence of the union on the side of the management, its Executive, HRD as MW1 gave evidence reiterating the facts made in the counter and further deposed that Ex. M1 is the Standing Orders and as per it the holidays are governed by A.P. National Festival and Holidays Act. For the year 1997 the Government of A.P. had declared a list of Public Holidays under A.P. National Festival Holidays Act. Ex. M3 is the said list in which 14-4-1997 was not given as holiday. He further deposed that on receipt of the list of holidays under A.P. National Festival and Holidays Act, the matter was discussed with the union and with the consent of the union, the holidays were fixed in

the calendar year 1997 before hand that is before commencement of the calendar year. Ex. M4 is the list of holidays for the year 1996. Ex. M5 is the list of holidays for the year 1997, which bears the signature of General Secretary. As per the agreement entered into between the management and union covered by Ex. M6 vide clause 12.6 it was agreed that with effect from 1988 the workman is entitled for 10 National and Festival Holidays for each calendar year and the said agreement was to be followed with the consent of the union. Though the union had demanded to declare 14-4-97 as holiday but the management did not agree for it, consequently the workmen have struck the work from 9.45 A.M. to 4.00 P.M. and so their wages were disallowed on the principle of 'no work no pay'. In this regard a Circular Ex. M7 was issued to the union informing that since the workers have not turned out the work on 14-4-97 their wages on that day were disallowed. To his knowledge other Public Sector such as ECIL the holiday was not declared 14th April every year. In fact the Government of A.P. had not declared Ambedkar Jayanthi 14th April as a National Festival Holiday. So the demand raised by the union is not tenable and they cannot claim for wages for not turning out the work.

9. In the cross examination Exs. W1 and W2 were confronted to the witness pointing out that during the year 1993 and 1994 14th April was declared as holiday. He further stated that the respondent-company was registered under Companies Act with effect from 1999 and prior to that it was under the National Dairy Development Board. A suggestion was given to the witness that the respondent from the beginning, was registered under Companies Act, ever since it was registered under Companies Act it is a Public Sector. Since the respondent company comes under Factories Act. It is not covered by Negotiable Instruments Act and that suggestion was denied by him. He further stated that Ex. M7 was displayed on the Notice Board on 29-4-97 since the workers were not turned out without taking any disciplinary action for striking the work on 14-4-97 their wages are disallowed.

10. The dispute between the union and the Management is with regard to declaration of holiday on 14-4-97 and since the respondent-management has not declared the said day as holiday and not paid the wages to the workers who struck work and protested, the union claimed the relief to order payment of double wages.

11. As per Article 43 of Indian Constitution it is duty of the State to make laws to ensure all workers a reasonable and adequate facilities for full enjoyment of leisure and all such social and cultural opportunities. Further to have living wage etc. to the workers the State shall endeavour to secure all suitable legislation or make regulations or in any other way to all workers i.e., agricultural or industrial living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure etc. Keeping in view of these directives of Constitution the A.P. National Festival and Holidays Act (Act No. 32 of 1974) R/W Rule 2 of A.P. Factories and Establishments (National Festival and other Holidays) Rule, 1974, have been framed and on the basis of said legislation every year the Government of A.P. has been declaring the holidays in calendar year both national and other festival holidays for the enjoyment of leisure to the Industrial Workers and thereby the Government has issued Ex. M3 list of holidays, in which 14-4-97 was not shown as National Holiday. As per Ex. M1 Certified Standing Orders which were signed by both the management and union were registered before the appropriate authority. Vide Clause 17, it is incumbent to follow A.P. National Holidays and Festival Holidays subject to any statutory provisions. The management has discretion to refuse any leave to its workers on those days. In view of clear commitment between the union and the management, it has a binding effect on both sides. Apart from it, memorandum of understanding covered by Ex. M6 entered into under Section 12(3) of I.D. Act between them confirming that National and Festival Holidays are to be followed. So the union is estopped from raising the demand or demanding double wages from the Management on the ground that 14-4-97 was not declared as holiday and that the work was extracted. The allegation of the management is that the union and the employees in protest had struck the work from 9.45 A.M. to 4.00 P.M. and caused loss of production to its industry. So as per circular Ex. M1, their wages on that day were disallowed.

Ex. M1 certified standing orders applies to the employees governing the service conditions so also for the entitlement of holidays and leave etc. Apart from it under Ex. M6 agreement was entered into under Section 12(3) of I.D. Act reiterating its commitment. So under any stretch of any interpretation, the union cannot raise a dispute for not declaring the holiday and as well to pay double wages or disallowed wages.

12. May be that for the earlier period the management by exercising its discretion, had declared 14-4-93 and 14-4-1995 covered by Exs. W2 and W3 as National Holidays as a mark of respect to the national leader Dr. B. R. Ambedkar, it cannot be a precedent at all or gives the union right to demand for declaring the said day as a National Holiday. MW1 in his evidence categorically stated that soon after receipt of list of National Holidays from the Government of A.P., the consent has been taken from the employees union to chose which of the 10 National and Festival Holidays in a calendar year will be finalised before the commencement of calendar year itself. When such practice is prevailing and following the statute A.P. National and Festivals Act, 1974 and its rules, it is too much to make any demand or struck work as protest. In a decision reported in IFLR 1993 (6) Summary Cases Page 29 Kerala High Court in respect of Kerala Industrial and Establishment National and Festivals Act, 1958 declaring holidays on feasts and festivals which was held that in granting holidays selecting different days as a festivals it cannot be considered as invalid in view of Article 43 of Indian Constitution. On the same analogy the decision of the management holds good. So when the Government of A.P. is bound to release the list of National Holidays choosing certain days as National Holidays and Festival days, it cannot be given a go-bye or a departure to it. Unless both the union and the management agrees to have different dates as per its convenience, it cannot go for more than 10 National Holidays and Festivals in each calendar year. The respondent-establishment may be a Public Sector company as per the Companies Act but it has its own limitation in view of Ex. M1 Certified Standing Orders as registered under Factories Act. Simply for the reason that the Public Sector follow the Central Government declaring the holiday on 14-4-97 to be an holiday in honour of National Leader it cannot be compelled the management to declare the particular day as a holiday with wages. There is no justification for the union to strike work on 14-4-97 protesting with the management for not declaring the holiday on that day. The union has not come forward with any rebuttal evidence to show that on 14-4-97 there was production in the factory. During the trial the union could have asked the management to produce production register to find out truth or otherwise. It did not take such steps to falsify the version, so the version of MW1 cannot be considered as untrue. The dispute espoused by the union seeking demand to pay double wages to the employees for not declaring 14-4-97 as holiday is devoid of merits and such demand is untenable.

13. For the aforesaid discussion the claim of the petitioner-union is not justified and it is dismissed.

14. In the result, an award is passed holding that the respondent-management is justified in not declaring 14-4-97 as National Holiday in view of the holidays declared under A.P. National Holidays and Festivals Act 1974 and its rules. The petitioner is not entitled to any relief. In the circumstances of the case, there is no order to costs.

Dictated to the Steno-typist transcribed by him, corrected by me and given under my hand and the seal of this Tribunal on this the 27th day of February, 2001.

SYFD ABDULLAH, Industrial Tribunal I, Hyd.

Appendix of Evidence :

Witness Examined for Petitioner :	Witness Examined for Respondent :
WW1 E. Malla Reddy	MW1 D. V. Reddy

Documents marked for the Petitioner :

Ex. W1 Circular dt. 14-4-93	observing 14-4-97 as holiday.
Ex. W2 Circular dt. 12-4-95	observing 14-4-95 as holiday.



- Ex. W3 Representation of the union filed before the ACL on 9-5-97.
- Ex. W4 Minutes for conciliation about failure of conciliation.
- Ex. W5 Letter of union submitted to the Management on 7-8-2000 for permission to attend this Tribunal in the case.
- Documents marked for the Respondent :
- Ex. M1 Certified Standing Orders of the Company.
- Ex. M2 Letter dt. 16-4-98 of Government of India refusing the dispute for reference to adjudication.
- Ex. M3 List of Holidays for the year 1997 declared by Government of A.P. for the factories and establishments.
- Ex. M4 List of holidays for the year 1996 of the respondent.
- Ex. M5 List of Holidays for the year 1997 of the respondent.
- Ex. M6 Memorandum of Settlement entered into under Section 12(3) of I.D. Act.
- Ex. M7 Notice dt. 29-4-1997 issued by the Management about deductions affected from the salaries of the workmen for the month of April, 1997 in principle of no work no pay on 14-4-1997.

नई दिल्ली, 28 मार्च, 2001

का.आ. 832.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूरसंचार विभाग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में औद्योगिक अधिकरण विन्यासपत्र के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-3-2001 को प्राप्त हुआ था।

[नं. एन-40012/205/95-आई आर (डीयू)]

कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 28th March, 2001

S.O. 832.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal/Labour Court, Visakhapatnam, as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Deptt. of Telecom and their workman, which was received by the Central Government on 28-3-2001.

[No. L-40012/205/95-IR(DU)]

KULDIP RAI VERMA, Desk Officer

#### ANNEXURE

IN THE COURT OF INDUSTRIAL TRIBUNAL-CUM-  
LABOUR COURT, VISAKHAPATNAM

PRESENT :

Sri K. Veerapu Naidu, B.Sc., B.L., Chairman and Presiding Officer.

Dated : 2nd day of February, 2001

I.T.I.D. (C) 15/97

Ref No. L-40012/205/95-IR (DU) dt. 10-7-1997

#### BETWEEN

Y. Madhusudhana Rao,  
D No. 73/32-2, Thotavari Street,  
II Cross Road,  
Vijayawada-6

.. Workmen.

#### AND

The Telecom Dist. Manager,  
Telecommunications,  
Eluru-534050,  
West Godavari Dist.

.. Management.

This dispute coming on for final hearing before me in the presence of Sri A. V. Sesubasiva Rao and Sri A. S. Rama Sarma, Advocates for workman and of Sri M. Ramakoti, Advocate for management, upon hearing the arguments of both sides and on perusing the entire material on record, the court passed the following:

#### AWARD

(1) This is a reference made by the Government of India under Sec. 10(1)(d) and Sec. 10(2)-A of the Industrial Disputes Act for adjudication of the following dispute.

"Whether the action of the management of Telecom District Manager, Eluru in terminating the services of Sri Y. Madhusudhana Rao, Telecom Office Asst. w.e.f. 2-5-1992 is justified? If not, to what relief the workman concerned is entitled for?"

(2) The case of the claimant is that he was selected as Telecom Office Assistant (hereinafter called as TOA) and joined in service on 6-7-1981 and thereafter his services were regularised. He was also qualified in the confirmation examination of TOA held on 27-6-1982 and after three years he was asked to produce the originals of SSC and higher educational qualification within 3 days by the letter dated 30-11-1983. The Original Certificates that were submitted at the time of his selection were not returned to him. Then the respondent directed two applicant to furnish the particulars of the educational qualification and the school/college in which he was educated and a reply dated 12-1-1984 was given. Four months thereafter the management directed the petitioner to submit the originals/duplicates of the certificates by obtaining the case from the concerned authorities, otherwise a disciplinary action will be taken for which a reply dated 21-5-1984 was given asking for a certificate of misplacement of the original certificates submitted by him. Thereafter, the management asked the workman through its letter dated 30-6-1984 to obtain the duplicates from the concerned authorities and to submit them on or before 20-7-1984 and the said letter is silent as to the request made by him for the issuance of a misplacement certificate to obtain the duplicates. Again, the management asked through its letter dated 15-12-1984 to produce evidence in support of his statement that the originals were already submitted at the time of selection for which a reply dated 11-1-1985 was given stating that he submitted the originals to Sri N. Pardhasaradhi, the then Divisional Engineer, Telecom. While so, the first respondent issued a charge sheet dated 12-2-1986 alleging that he furnished wrong information regarding the percentage of marks in SSC in connection with the initial recruitment as TOA for I-HY/91 and thus, obtained employment wrongfully, thereby contravened Rule 3(i)(iii) of CCS (Conduct) Rules, 1964 and extract of 'Z' register and the report from Head Master were enclosed and 3 witnesses were examined in the course of enquiry and in the inquiry the charges were held to be proved. So a dismissal order dated 29-7-87 was served on the workman. An Appeal was preferred and the case was rejected and a representation was also preferred but no orders were communicated and finally he filed O.A. No. 51/90 before the Central Administrative Tribunal, Hyderabad questioning his dismissal from service and the Central Administrative Tribunal allowed the O.A. by questioning the dismissal order by judgment dated 1-1-92 on the ground that the dismissal order was passed behind his back without affording reasonable opportunity to the petitioner to make representation on the inquiry report and the enquiry report was not supplied to him. Later the enquiry report was supplied to the petitioner and the petitioner submitted his representation for reinstatement again, the first respondent passed an order dated 2-5-1992 dismissing the petitioner workman from service w.e.f. 2-5-1992. Again an appeal is preferred and it was rejected, then an application was filed before the Asst. Commissioner of Labour Visakhapatnam but in vain and a failure report was submitted to the Central Government and the Central Government, in turn, referred the matter for adjudication.



(3) The case of the workman is that the dismissal from service is not sustainable on the following grounds.

- (i) There was delay of about 5 years in initiating the disciplinary proceedings.
- (ii) It is in gross violation of the provisions of Rule 14 of CCS (CCA) Rules, 1965 read with Article 311(2) of the Constitution of India.
- (iii) The charge framed against two workmen is baseless as there was no original certificates with the management nor the management did not wait till the receipt of the duplicates from the applicant.
- (iv) There was no proper enquiry and the management has already pre-judged the case even before issuing the charge memo.
- (v) The management allowed him to continue as TOA for about 6 years and cannot question the appointment of the workman.
- (vi) The workman was qualified in two confirmation examination for the post of TOA held on 27-6-82. Therefore, he cannot be dismissed from service since the enquiry officer exhibited biased attitude towards the applicant. In the enquiry, no opportunity for cross examining the PWs 1 to 3 was given and the enquiry officer rejected two witnesses out of the four defence witnesses. There is no evident in support of the charges framed against the petitioner and hence the charges cannot be held to be proved. When once the Central Administrative Tribunal in O.A. No. 51/90 is set aside the dismissal order, the management ought not to have issued again the dismissal order.

4) This Tribunal passed an award in favour of the kman in its Award dated 8-7-1999 to the respondent ugement remained exparte by placing reliance on a sion reported in 1999(3) ALT 165 between K. Nagarani Vs. Managing Director, A.P. Vikalangule Corporation, Hyderabad and Another.

(5) As against which the management preferred and filed writ in W.P. 803/99 and the said Writ was dismissed with a direction to the management to file an application to set aside the exparte award. Accordingly, I.A. 34/2000 was filed and allowed on 12-4-2000 and then the management filed the reply statement.

(6) In the reply statement, the management alleging that this tribunal has no jurisdiction because the workman has already elected in the jurisdiction of the Central Administrative Tribunal and invited a decision by filing O.A. No. 51/90 and he cannot be permitted to choose this Tribunal by leaving the forum which he already choosen for the redressal of his grievances. The Telecom department is not an industry. A reasonable opportunity to the claimant was given after the matter was remanded by the Central Administrative Tribunal for a fresh inquiry. It is further stated that the original application with the enclosures had been missing from th official records and as such harping upon the same allegation that they were not produced before an enquiry officer is neither meaningful nor tenable. The claimant in his attestation form stated in his own handwriting that he studied in Andre Jetocye Kalcoale, Machillipatne and marks secured by him and which were proved to be false during enquiry proceedings and it also further confirms the factum of furnishing false particulars by the claimant. The 'Z' register it is a public document and it is maintained by the office and it was proposed on the basis of the attestation form and the identity of the claimant is vouched by the photograph duly attested by a Gazetted Officer and during the enquiry, the attestation form and the 'Z' register were produced. Therefore, the non-production of the original application with its enclosures could not in any prejudice the case of the claimant before the enquiry officer. The claimant cross-examined the prosecution witnesses, the claimant examined the departmental witnesses on his behalf. Therefore, he was

afforded the reasonable opportunity in the enquiry. The charge alleged against the claimant is that he secured the appointment by furnishing false information, regarding his school in which he studied and the percentage of marks obtained by him is SSC and not regarding his honesty or efficiency in performance of his duty in office and his graduation and his diploma is not relevant therefore the eligibility for recruitment of the claimant as TOA is determined by the percentage of marks obtained in SSC and not his graduation or diploma. The claimant was afforded reasonable opportunity to establish his case but failed to establish the same. Therefore, the dismissal order of the workman is to be confirmed.

(7) Both counsels submitted that the matter may be posted for enquiry and the point as to the validity of domestic enquiry report may be decide at the time of final disposal of the I.D.

(8) Before this Tribunal, the workman is examined as WW1 and got marked Exs. W1 to W17 and on behalf of the management, the witnesses are examined as MWs 1 and 2 and Exs. M1 to M9 are marked.

(9) Heard both sides.

(10) The point that arises for consideration in this reference is :

"Whether the termination of the petitioner from service under the proceedings dated 7-5-1992 of the Divisional Manager, Telecom, Eluru is valid, legal and justified?"

(11) The learned counsel appearing for the workman contends that the domestic enquiry held in this case even after the matter was decided by the Central Administrative Tribunal in its order dated 13-3-1992 in O.A. No. 51/90, is defective and that the original application and the enclosures submitted by the petitioner were not produced before the enquiry officer and that the enquiry was conducted.

(12) On the other hand, the learned counsel appearing for the management submits that Ex. W11 the letter dated 26-4-1984 discloses that the circumstances, informed by the Divisional Manager, Telecom that the original certificate submitted by him for selection should be made available to the undersigned as and when called for. In the said letter it is further stated that if the certificates are not available, duplicate copies of the certificates must be obtained from the authorities concerned and produce and failure in this regard will make him liable for disciplinary action, as deemed fit, in CCS (CCA) Rules, 1965 for which a reply was given by the workman that the original certificates were submitted to Sri N. Parthasaradhi, the then Divisional Manager, Telecom, Eluru through Sri K. Venkata Ratnam the then head clerk of the establishment section at the time of recruitment. Hence they may please be addressed to them in this matter and they may be asked to obtain duplicate copies of the certificates if they report that they have misplaced the said certificates. Then the management through its letter dated 30-6-84 gave a reply Ex. W13 denying the said fact as they are not available in their office and directed the workman to obtain the duplicate copies of the certificates from the concerned administrative authorities and submit them to their office on or before 20-7-1984, failing which further action, as deemed fit, will be processed without any further notice under CCS(CCA) Rules, 1965, for which a reply was given by the delinquent dated 20-7-84. Ex. W14 stating that educational authorities have been addressed for supply of duplicate copies of the certificates and it has been informed by the educational authorities that he will no be supplied duplicate copies unless misplacement certificate is issued by the department is produced. That is why, in his previous letters he requested the department to issue such certificate but the department have not been pleased to grant such certificate so far and he will submit the duplicates if and when received and he asked a minimum of 20 days, time for that purpose. The last letter Ex. W16 is dated 11-1-85 addressed by the workman to the Divisional Engineer, Telecom Eluru requesting to refer his letter dated 20-7-84 and kindly arrange to issue the certificate requested therein for taking further action.

(13) From the above said Ex. W16 correspondence for the production of the originals or in the alternative for production of duplicate certificates from the concerned educational institutions went on between the workman and the management, the net result is that the workman neither produced the duplicate certificates nor the management produced the original application form and its enclosures as demanded by the workman. Ultimately, the workman faced the enquiry and he was dismissed from service.

(14) The learned counsel appearing for the workman contends that had he produced the original application along with the enclosures, it would have clinched the issue and that the management without original application and its enclosures neither enquiry officer nor the respondent management is justified to hold that the charges levelled against the workman claimant.

(15) The workman as WW1 also stated that the management did not conduct the domestic enquiry properly, the documents requested by him at the time of enquiry were not produced and dismissed him from service on 29-7-87 and then he approached Central Administrative Tribunal and the dismissal order was not aside but the management was permitted to proceed with the enquiry from the stage of supply of enquiry report and the management again dismissed him from service on 2-5-92. His appointment order is Ex. W2, Ex. W4 is the memo to produce original marks list. Ex. W5 is the reply saying that the marks list was with management. Ex. W6 is the charge sheet issued by the management. Ex. W7 is the copy of his explanation. Ex. W8 is the enquiry report. Ex. W9 to W16 are the correspondence with the management. He obtained 53.4 per cent marks aggregate in his 10th class and he has mentioned the same in his original application form and he never represented that he got 79.4 per cent and he requested the enquiry officer to call for the original application form but no reply was given to that and he was given the dismissal order. Ex. W17. He also deposed that he do not know on what basis the register was prepared. He pleaded that he do not know if any one is not selected having got less than 76.20 per cent of marks in 10th class and he was selected in the open-competition and in the domestic enquiry one of the senior staff members defended him and he has chosen that man. He denied a suggestion that the original educational marks lists and educational qualification certificates were returned to him after they are verified and the attested copies enclosed to the original application. Further he denied a suggestion put to him that Ex. M7 bears incorrect particulars. He also denied a suggestion that he submitted incorrect particulars in the attestation form Ex. M7 and secured the job. Ex. M8 is the enquiry officer's report dated 27-7-87. It discloses that 5 witnesses are examined for the management N Parthasarathi the Deputy Executive Engineer is examined as DW1 before the enquiry officer and Exs. P1, P2 and D1 to D3 are marked and the evidence before the enquiry officer discloses that the evidence of Sri Ch. Sanyasi Rao, who is examined as MW2 before this court and who knows the application, as office assistant and who verified the entries in the register (original Ex. M9) and the application and the enclosures submitted by the workman. Here also that Sanyasi Rao stated as MW2 that after checking the applications they will be entered in a register called Z register and the Z register containing the name of the applicant, category, date of birth, marks obtained in the qualifying examination i.e., SSC or 10th Class and the additional marks for additional qualifications and his signatures are there at pages 7, 11, 13, 15, 17, 19, 21, 25 and 29. He also further stated that the particulars furnished in the application form such as name, date of birth and marks obtained etc. and after satisfying with the veracity and truth of the contents of the enclosures, these particulars will be entered in the Z register. He also stated that he was incharge of the recruitment work and he worked in Eluru from August, 1980 to 1983 August. He also stated that the particulars of the workman are entered at pages 10 and 11 of the Z register and the marks particulars are entered therein are 79.40 per cent in the qualifying examination, and 10 marks for additional qualification. He also stated that the marks noted in the Z register are from the particulars furnished by the workman in his application form and the enclosures. He denied a suggestion that the application and enclosures submitted by him discloses that he got only 53.4 per cent marks and not 79.40 per cent as entered in the Z register. In the cross-examination he stated that he

verified the documents personally and physically i.e., application form and marks list, degree certificate and he checked the entries in the Z register along with the documents. The Z register was prepared on 24-2-81 and at page No. 18 and 19 in Ex. M9 the particulars with regard to the petitioner are mentioned and he made verification of the application and other particulars of the workman on 27-2-81 and a check slip is attached to the application form which will be in the custody of the recruitment clerk.

(16) Basing on the evidence of the very same witness by name Ch. Sanyasi Rao, and also P. Venkata Ratnam, who is examined as PW2 in the enquiry, the enquiry officer in his report Ex. M8 came to the conclusion that the charges levelled against the workman are established and before the same enquiry officer, the workman also submitted his defence statement 6-6-1987 which is marked as Ex. M6 which discloses that the missing of the documents is the deliberate act and it requires to be investigated first and give its findings before initiating action against him. Sri K. Venkataratnam is now facing a rule 14 inquiry in this particular aspect and he alleged that he had given full charge to his successor Sri Ch. Sanyasi Rao which implies that the missing occurred in the letter tenure as SSS(E) and he submit that it was in between the two and that he was deprived of the benefit of the material documents to prove his innocence and as such, the production of the two officers as witnesses against him is quite unjustified. Therefore, he contends that the allegation of implication of marks as 79.40 per cent instead 53.4 per cent in the 10th class made against the workman cannot be valid. However, the learned counsel appearing for the workman contends that there are several infirmities in the domestic enquiry held second time and that no inquiry was held at all but Ex. M5 defence statement in the second time inquiry does not disclose any such of the allegations against the enquiry officer and even the judgment in O.A. 51/90 discloses that the copy of the enquiry report was given only along with the punishment order to the workman and it is opposed to law and principles of natural justice as was held in the case of Union of India and Others Vs. Mohd. Ramzan Khan AIR 1991 SC 476 and therefore, the punishment order was quashed and it is also observed that it will not preclude the respondents management from supplying a copy of the enquiry report to the applicant and given him an opportunity to make his representation and proceeding to complete the disciplinary proceedings from that stage. Therefore, the stage at which the initial stage i.e. the first inquiry was before punishing the workman, a copy of the enquiry report is to be supplied and asked for show cause notice and therefore, here in this case, there is no infirmity nor any denial of opportunity to the workman so as to contend that the inquiry was held in violation of the principles of natural justice. Therefore, the validity of the domestic enquiry report does not in any way suffer with any infirmity much less there is no statutory violation nor any principles of natural justice. Therefore, I hold that the enquiry held in this case is valid.

(17) The next question, that falls for consideration is whether the findings established by the enquiry officer are with any basis or without any basis? The only material produced by the management to prove the alleged charge is the Z register which is marked as Ex. M9 and the attestation form submitted by the workman which are marked Ex. M7. The learned counsel appearing for the workman submits that the absence of the original application form and its enclosures which are the basis for the preparation of the Z register are not produced by the management for the reasons best known to the management and they were suppressed and as such, much credence cannot be given to the Z register so also the attestation form.

(18) As against this, the learned counsel appearing for the management submits that the Z register is also a public document and, therefore, entries made therein are relevant evidence. In support of his contention the placed reliance on a decision reported in 1998 (1) SCC 700 between Union of India and Others Vs. A. Nagampalishwar Rao wherein their lordships of the Supreme Court held that the Tribunal was not a court of appeal and it failed to appreciate that the register was a public document and, therefore, entry made therein was a relevant evidence. It is also further held in the same judgment that the Tribunal have not taken into consideration that the candidate who secured 70.4 per cent

marks was the last one to be appointed, and that the respondent did not produce original or duplicate copy of his certificate despite being repeatedly asked to do so. In the same judgment it is also held that wrong declaration of marks in SSC examination but for this wrong declaration, the respondent would not have been given appointment and his dismissal therefore upheld.

(19) There is some force in the contention made by the learned counsel appearing for the management. Here, in this case, the management produced not only the Z register and also the attestation form Ex. M7 which also contains the incorrect particulars. As already stated above, the workman has given wrong particulars in his attestation form and ultimately he was pinned down to admit that Ex. M7 is not submitted by him to the management but it bears his photo and his signatures and the name mentioned therein is also his. Therefore, the second charge that he has given incorrect particulars is established. So far as the Z register Ex. M9 and the marks entered against the application 116 belonging to the applicant are 53.40 per cent marks. This percentage of marks was entered basing on the application and the enclosures made therein. MW2 has stated with regard to the maintenance of Ex. M9 Z register which is a public document maintained by the office, MW2 admitted that he supervises the preparation of this Ex. M9, Z register and his signatures are there at pages 7, 11, 13, 17, 19, 21, 25 and 29. He also deposed that the Z register will be prepared on the basis of the enclosures of the application form i.e. name, date of birth and marks obtained etc. after satisfying with the veracity and the truth of the contents of the enclosures. Therefore, by placing reliance on the above said decision of the Supreme Court, this Z register has got evidentiary value and the applicant would not have got the job had he secured only 53.4 per cent as stated by him and even the Z register also discloses that the last man who was selected, has secured only 63.80 per cent in the 10th class, the qualifying examination in competition of candidates bearing application No. 158 Mohammad Jafarulla. Therefore, the management in this case clearly established that the applicant having given incorrect particulars with regard to the percentage of marks secured in the qualifying examination namely 10th class as 79.40 per cent and hence the charges alleged against him are held proved.

(20) However, the learned counsel appearing for the management contends that the management is telecom department and it is not an industry. This contention has no force because of the pronouncement made by the Supreme Court in 1(1998) SLT page 9 between General Manager, Telecom Vs. S. Srinivasa Rao Vs. Others, wherein their Lordships of the Supreme Court have pleased to hold that the telecom department of Union of India is an industry within the meaning of Section 2(j) of the Industrial Disputes Act by placing a reliance on the Bangalore Water Supply and Sewerage Board Vs. A. Rajappa and Ors. (1978) 2 SCC 213. Therefore, it is now well settled that the Telecom Department of the Union of India is an Industry. Hence there is no force in the said contention.

(21) The next contention or the initial contention of the workman which I am dealing at the end is that this Tribunal has no jurisdiction for the reason that the workman have initially elected Central Administrative Tribunal is a forum for the redressal of his grievances. He cannot switch over to this Tribunal and he is precluded by virtue of the principle of doctrine of election. In support of his contention he placed reliance on the following three decisions:

(1) AIR 1918 Madras 489 between K. Hajoo Abdul Lateef and another Vs. Official Assignee of Madras wherein their Lordships of 3 Judges were pleased to hold under Section 7 of the Presidency Town Insolvency Act(1989) that no suit lies to set aside an

order passed under Section 7 and the proper remedy for the party aggrieved is to appeal against the order. That was a case where the applicants therein made an application in the insolvency of A. S. Mohaman Ossman Sahib and Co. and asked for a declaration to certain goods which had been seized by the Official Assignee after adjudication were their property and not the property of the insolvency, and the said application was dismissed on the merits. Then the applicant brought a suit against the Official Assignee for the declaration which he had asked for in his application in the insolvency. Then their Lordship hold that suit do not lie and the proper remedy for the party is to appeal against that order as provided under the statute. The said decision has no application because there is a statutory remedy available under the Presidency Towns Insolvency Act and that the appellants therein have already chosen a forum under a statute and they have to pursue their remedy available therein. Here in this case initially the workman approached the Central Administrative Tribunal and got an order of dismissal reversed. However with a direction to proceed the departmental action at the stage at which the punishment was imposed. So the disciplinary authority have started its proceedings at the stage at which it failed to supply the domestic enquiry report before imposing the punishment and ultimately passed the orders of dismissal by virtue of Ex. W17 dated 2-5-92. This Ex. W17 order is the very order which is now being questioned under the provisions of Industrial Disputes Act before this Tribunal. Earlier the workman questioned the dismissal order and therefore, it cannot be said that the workman has already taken or chosen one forum namely the Central Administrative Tribunal earlier and now he is estopped from choosing this Tribunal. The dismissal order in question before the Central Admn. Tribunal was not the dismissal order in question before this Tribunal. Therefore, the above said decision has no application.

(2) Similarly the second decision relied on by the management is more or less lays down the same principle and it is AIR 1919 Allahabad 229 between Irshad Hussain and others Vs. Gopi Nath wherein their Lordships of Allahabad High Court were pleased to hold that the plaintiff agitated the attachment by the official receiver in insolvency proceedings before the Provincial Insolvency Court and the objections were dismissed and the order was upheld in the appeal then the plaintiff brought a suit for a declaration that the attached share belonged to him. Then their Lordships were pleased to hold that the suit was barred by the principle of res judicata. The above said decisions also has no application to the facts of this case. Here the earlier dismissal order of the workman was set aside by the Central Admn. Tribunal in O.A. 51/90. Therefore, it cannot be a res judicata, even otherwise, as already observed by me, the order is question before the Central Admn. Tribunal is not the one and the same in question before this Tribunal. Be as it may the workman earlier has chosen the forum in the Central Admn. Tribunal and it has given a finding directing the disciplinary authority to make inquiry from the stage at which it was asked to do, and a fresh finding was made by the disciplinary enquiry, may be the same finding which was given earlier namely the dismissal. But yet, the finding that is is question

but the proceedings of the findings questioned before this Tribunal altogether different from that what was questioned earlier before the Central Admn. Tribunal. Therefore, the above said decision has no application.

(3) Then the other decision on which the workman wanted to rely is reported in 1989 (3) ALT page 714(DS) between B. V. Rao and the management of Chittivalasa Jute Mills, Chittivalasa, Repd. by President (Tech.) and another wherein their Lordships of the High Court of A.P. were pleased to hold under Section 2(k) of the I.D. Act that the employee may seek his remedy in case of termination of service either in Civil Court or in Labour Court and he cannot pursue remedies in both forum simultaneously or consecutively. That was a case where the employee initially questioned the termination order and claimed reliefs for reinstatement with all benefits or in the alternative awarding damages for wrongful termination in a civil court and the civil court awarded damages. Later he approached the Labour Court for reinstatement. Then he was allowed to pursue his remedy before the labour court by granting permission to him to withdraw the appeal pending before the appellate court against the part of the decrec, disallowed the claim of reinstatement. Therefore, even by applying the said principle, here, this is not a case where the workman have approached both the forum namely the Central Admn. Tribunal and this Tribunal-cum-Labour Court simultaneously nor his claim was decided finally by any one of the forum so as to say that the workmen have approached this Tribunal consecutively. Admittedly, there are no proceedings pending before the Central Admn. Tribunal questioning the very dismissal order in dispute before this tribunal. Therefore, viewing in any angle, I see no substance in the arguments advanced by the learned counsel appearing for the management.

(24) Therefore in the light of my aforesaid discussion the dismissal of the employee in this case is justified and accordingly, I answer the reference in favour of the management and against the workman.

(25) In the result, Nil Award is passed. However, each party is directed to bear its own costs.

Dictated to steno transcribed by her given under my hand and seal of the Court this the 2nd day of February, 2001.

SRI K. VEERAPU NAIDU, Presiding Officer

#### Appendix of Evidence

#### Witnesses Examination For

Workman : Management

WW1 Y. Madhusudan Rao

MW1 Yesunadhan  
MW2 Ch. Sanyasi  
Rao.

#### Documents marked for workman :

Ex. W1 15-7-81 : Provisional appointment w.e.f. 6-7-1981 F.N.

Ex. W2 2-1-82 : Regular appointment w.e.f. 6-7-81 F.N.

Ex. W3 13-3-81 : Selection order as T.O.A.

Ex. W4 30-9-82 : Memo indicating qualified in the confirmation examination.

Ex. W5 6-12-83 : Memo to submit originals.

Ex. W6 12-2-86 : Charge memo.

Ex. W7 15-3-86 : Explanation of the workman.

Ex. W8 Enquiry report.

Ex. W9 Letter addressed to workman by the management regarding production of original education certificate.

Ex. W10 12-1-84 : Letter addressed to management by the workman.

Ex. W11 26-4-84 : Letter addressed to workman by the management.

Ex. W12 21-5-84 : Letter addressed to Management by the workman.

Ex. W13 3-6-84 : Letter addressed to workman by the management.

Ex. W14 20-7-84 : Letter addressed to management by the workman.

Ex. M15 15-12-84 : Letter addressed to workman by the management.

Ex. M16 11-1-85 : Letter addressed to management by the workman.

Ex. W17 2-5-92 : Proceedings of the Divisional Engineer, Telecom.

#### Documents marked for Management :

Ex. M1 12-2-86 : Charge sheet.

Ex. M2 Appointment of Inquiry Officer and Presenting officer.

Ex. M3 Diary proceedings.

Ex. M4 Presenting Officer's brief and defence brief.

Ex. M5 Defence witnesses and prosecution witness.

Ex. M6 1-9-84 : Letter addressed to the management by the Head Master P. H. School Mallavalu.

Ex. M7 17-3-81 : Attestation Form.

Ex. M8 27-7-87 : Enquiry report.

Ex. M9 Recruitment register to the cadre of office assistant.

नई दिल्ली, 28 मार्च, 2001

का.आ. 833.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार जनरल मैनेजर, दूर संचार के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्बिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, विशाखापत्तनम के पचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-3-2001 को प्राप्त हुआ था।

[सं एल-40012/171/96-आई आर(डी यू)]

कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 28th March, 2001

S.O. 833.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal/Labour Court, Visakhapatnam as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of General Manager, Telecom and their workman, which was received by the Central Government on 28-3-2001.

[No. L-40012/171/96-IR(DU)]

KULDIP RAI VERMA, Desk Officer

### ANNEXURE

#### IN THE COURT OF INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT, VISAKHAPATNAM

#### PRESENT :

Sri K. Veerapu Naidu, B.Sc., B.L., Chairman and  
Presiding Officer.

Dated, 2nd day of February, 2001

L.T.I.D. No. (C) 6/98

Ref. L-40012/171/96-IR(DU) dated 3-2-98

#### BETWEEN

P. Ganeswara Rao (Ex-Telecom Office Asstt.),  
C/o U. Someswara Rao,  
Mothey Vedakumar Buildings,  
Western Street,  
Eluru-534001. . . . . Workman.

#### AND

General Manager,  
Telecom Sampath Vinayak Temple,  
Siripuram,  
Visakhapatnam-530002. . . . . Management.

This dispute coming on for final hearing before me in the presence of Sri A. V. Sambasiva Rao, advocate for workman and Sri M. Ramakoti, advocate for management. Upon hearing the arguments of both sides and on perusing the entire material on record the court passed the following:

#### AWARD

(1) This is a reference made by the Government of India under Section 10(1)(d) of the Industrial Disputes Act for adjudication of the following disputes:

“Whether the action of the management of General Manager, Telecommunications, Visakhapatnam in terminating the services of Sri Ganeswara Rao, Ex-Telecom Office Asstt. w.e.f. 7-5-92 is legal and justified? If not, to what relief the workman concerned is entitled to?”

(2) The case of the claimant is that he was selected as Telecom Office Assistant (hereinafter referred as TOA) and he joined in service on 3-2-91 in the office of Divisional Engineer, Telecom Department, Eluru.

While serving as such, he was issued with a charge sheet alleging that he furnished wrong information regarding the school where he studied SSC and also with regard to the percentage of marks secured in SSC at the time of initial recruitment as TOA for the second half year 1980 for Eluru Telecom Division. It is further alleged that he obtained employment wrongfully by furnishing incorrect information about himself and his behaviour prior to the employment and renders him unfit to be a Government servant contrary to Rule 3(1)(i) and (iii) of CCS (Conduct Rules), 1964.

(3) The case of the workman is that the original applications along with its enclosures were suppressed by the respondent and the charges were held to be proved basing on the Z register prepared with reference to the details furnished in the original application form and that a clerk who maintained the Z register is not examined in the domestic inquiry. Therefore, the charges levelled against the claimant are not established and therefore consequential dismissal of the workman from service is not valid and it is liable to be set aside. So he preferred O.A. 178/89 on the file of the Central Administrative Tribunal, Hyderabad claiming for reinstatement with consequential benefits against the order of the dismissal dated 30-9-88 (Ex. M8) of Divisional Engineer, Telecom and the same was dismissed with a direction to conduct the enquiry proceedings by the disciplinary authority from the stage of which the management failed to furnish the Domestic Enquiry report before awarding the punishment of dismissal from service. Fresh enquiry from that stage was conducted, and again the petitioner was dismissed from service by the orders dated 7-5-92 (Ex. M11). An appeal was preferred before the District Manager, Telecom West Godavari District, Eluru which was rejected under the proceedings dated 12th August, 1993 (Ex. M12). The said order is questioned by the conciliation officer by the workman and the conciliation failed and the Government ultimately made this reference upon which the workman questions the validity of the domestic enquiry and the order of dismissal on the following grounds :

- (a) The original application form with its enclosures are not produced in the enquiry which is the basis of the charge.
- (b) The material and additional documents were not supplied.
- (c) The findings of the enquiry authority is based on surmises.
- (d) The enquiry was commenced 5 years after the recruitment.
- (e) The preliminary enquiry report and the statements recorded in the preliminary enquiry were not supplied to the applicant. The charge is based on suspicion and it cannot be a ground for framing the charge.
- (f) The enquiry officer did not forward the bias petition filed by the petitioner to the appropriate authority, consequently the enquiry report submitted by the enquiry officer is defective and it is in violation of statutory provisions and the final orders, passed by

the punishing authority by dismissing the petitioner on 2-8-93, is liable to be set aside as it was biased and based on an erroneous enquiry report.

(4) As against this, the reply written statement filed by the management alleging that this tribunal has no jurisdiction because the workman has already elected in the jurisdiction of the Central Administrative Tribunal and invited a decision by filing O.A. No. 178/89 and he cannot be permitted to choose this Tribunal by leaving the forum which he already chosen for the redressal of his grievances. The telecom department is not an industry. A reasonable opportunity to the claimant was given after the matter was remanded by the Central Administrative Tribunal for a fresh enquiry. It is further stated that in the original application that its enclosures had been missing from the official records and as such harping upon the same allegation that they were not produced before the enquiry officer is neither meaningful nor tenable. The Claimant in his attestation form stated in his own hand writing that he studied SSC in Rajahmundry during 1971-72 with the percentage of marks secured by him and which were proved to be false during enquiry proceedings and it also further confirms the factum of furnishing false particulars by the claimant. The Z register is a public document and it is maintained by the office and it was prepared on the basis of the attestation form and the identity of the claimant is vouched by the photograph duly attested by a Gazetted Officer and during the enquiry the attestation form and the Z register were produced. Therefore, the non-production of the original application with its enclosures could not in any prejudice the case of the claimant before the enquiry officer. The claimant cross-examined the prosecution witnesses, the claimant examined the departmental witnesses on his behalf. Therefore he was afforded the reasonable opportunity in the enquiry. The charge alleged against the claimant is that he occurred the appointment by furnishing false information, regarding his school in which he studied and the percentage of marks obtained by him in SSC and not regarding his honesty or efficiency in performance of his duty in office and his graduation and his diploma is not relevant and therefore the eligibility for recruitment of the claimant as TOA is determined by the percentage of marks he obtained in SSC and not his graduation or diploma. The claimant was afforded reasonable opportunity to establish his case but failed to establish the same. Therefore, the dismissal order of the workman is to be confirmed.

(5) Joint memo is filed by both the parties stating that the matter may be posted for enquiry and the point as to the validity of the domestic enquiry report may be decided at the time of final disposal of the I.D.

(6) Before this Tribunal the workman examined himself as WW1 and no documents are marked. On behalf of the management two witnesses are examined as Exc. M1 to M21 are marked.

(7) Heard both sides.

(8) The point that arises in this reference is :

Whether the termination of the petitioner from service under the proceedings dated 7-5-92 of the Divisional Manager, Telecom, Eluru is valid, legal and justified?

(9) The learned counsel appearing for the workman contends that the domestic enquiry held in this case even after the matter was decided by the Central Administrative Tribunal in its order dated 13-3-92 in O.A. No. 178/90, is defective and that the original application and the enclosures submitted by the petitioner were not produced before the enquiry officer and that no enquiry was conducted and if so the workman submitted an application Ex. M 14 dt. 27-12-86 before the enquiry officer.

(10) On the other hand, the learned counsel appearing for the management submits that the documents got marked by the defence before the enquiry officer discloses that the claimant was informed through the letter dated 26-4-84 by the Divisional Manager, Telecom that the original certificate submitted by him for selection should be made available to the undersigned as and when called for. In the said letter it is further stated that if the certificates are not available, duplicate copies of the certificate must be obtained from the authorities concerned and produced and failure in this regard will make him liable for disciplinary action as deemed fit in CCS(CCA) Rules 1965 for which a reply was given by the workman that the original certificates were submitted to Sri N. Parthasaradhi, the then Divisional Manager, Telecom, Eluru through K. Venkata Ratnam the then head clerk of the establishment section at the time of recruitment. Hence they may please be addressed to them in this matter and they may be asked to obtain duplicate copies of the certificates if they report that they have misplaced the said certificates. Then the management through its letter dated 30-6-84 gave a reply denying the said fact as they are not available in their office and directed the workman to obtain the duplicate copies of the certificates from the concerned administrative authorities and submit them to their office on or before 20-7-84 failing which further action, as deemed fit will be processed without any further notice under CCS (CCA) Rules, 1965, for which a reply was given by the delinquent dated 20-7-84 stating that educational authorities have been addressed for supply of duplicate copies of the certificates and it has been informed by the educational authorities that he will not be supplied duplicate copies unless misplacement of the certificates issued by the department should be produced. That is why in his previous letter he requested the department to issue such certificate but the department have not been pleased to grant such certificate so far and he will submit the duplicates if and when received and he asked a minimum of 20 days time for that purpose. The last letter Ex. M15 is dated 18-2-87 addressed by the workman to the Divisional Engineer, Telecom, Eluru requesting to refer his letter dated 20-7-84 and kindly arrange to issue the certificate requested therein for taking further action.

(11) From the above said Ex. M15 correspondence for the prosecution of the originals or in the alternative



for production of duplicate certificates from the concerned educational institutions went on between the workman and the management. The net result is that the workman neither produced the duplicate certificates nor the management produced the original application form and its enclosures as demanded by the workman. Ultimately, as the workman faced the enquiry and he was dismissed from service.

(12) The learned counsel appearing for the workman contends that if the management produces the original application along with the enclosures, it would have clinched the issue and that the management without original application and its enclosures, neither enquiry officer nor the respondent management is justified to hold that the charges levelled against the workman are proved.

(13) The workman as WW1 also stated that he was illegally removed and that he may be reinstated with all the benefits. He stated that he has shown 45.8 per cent marks in the 10th class certificate and it was enclosed to original application. However, he admitted that he submitted attestation form after he was selected by the management. He has given provaricating answers to this attestation form which is marked as Ex. M20 in the chief examination. He stated that Ex. M20 is not submitted by him to the management but it bears his photo and signature. He also admitted that the name mentioned therein is also his signature and he did not submit Ex. M20. He admitted that he submitted incorrect information with regard to the name of the school in which he studied in Ex. M20. He further stated that he was written with regard to the name of the school and he place mistakenly as shown in Ex. M20 and it is in his hand writing. Even in his chief examination at later point of time Ex. M20 is in his hand writing and this Ex. M20 might have been submitted to the management along with his application. In his cross-examination he stated that Ex. M20 bears his signature and it is also attested by the Gazetted Officer namely Veterinary Officer Live Stock Supervisory Unit, Godur Krishna District. Ex. M20 is filed in the domestic enquiry and it bears the signature of the enquiry officer. He admitted that he has to submit the attestation form later Ex. M20 after he got selection and before he got appointment orders in the prescribed proforma supplied by the department. Ex. M15 do contain the verification report of the Dist. Magistrate (Collector, Krishna Dist. Chilakalapudi) with regard to the attestation form submitted by the petitioner. Further he denied a suggestion put of him that Ex. M20 bears incorrect particulars. He also denied a suggestion that he submitted incorrect school of his education in the attestation form Ex. M20 and secured the job and he also denied that he has produced false particulars and false documents showing that he secured 80.20 per cent of marks in 10th class. Ex. M6 is the enquiry officer's report dated 23-7-88. It discloses that 4 witnesses are examined for the management M. Parthasarathi, the deputy executive engineer is examined as PW1 before the enquiry officer (D1 to D15 and Exs. P1 to P4 are marked and Exs. D1 to D15 are marked D1 to D15 are the correspondence between the workman and the management) which are here marked as Exs. M1 to M15. The evidence before the inquiry officer discloses that the evidence

of Sri Ch. Sanyasi Rao, who is examined MW2 before this court and who knows the application as office assistant and who verified the entries in the Z register (original Ex. M21) and the application and the enclosures submitted by the workman. Here also that Sanyasi Rao stated that after checking the applications they will be entered in C register called Z register and the Z register contains the name of the applicant category, date of birth, marks obtained in the qualifying examination i.e., Metric or 10th class and the additional marks for additional qualifications and his signatures are there at pages 6, 15 and 17, 19, and 21. He also further stated that the particulars furnished in the application form such as name, date of birth and marks obtained etc. and after satisfying with the veracity and truth of the contents of the enclosures these particulars will be entered in the Z register. He also stated that he was incharge of the recruitment work and he worked in Eluru from August, 1980 to August, 1983. He also further stated that the particulars of the workman are entered at pages 10 and 11 of the Z register and the marks particulars are entered therein are 80.20 per cent in the qualifying examination and 10 marks for additional qualification. He also stated that the marks noted in the Z register are from the particulars furnished by the workman in his application form and the enclosures. He denied a suggestion that the application and enclosures submitted by him discloses that he got only 45.8% marks and not 80.20 per cent as entered in the Z register. In the cross-examination also he admitted that he verified the documents personally and physically i.e., application form and marks list degree certificate and he checked the entries in the Z register along with the documents. The Z register was prepared on 6-9-80. At page No. 3 at serial No. 21 the particulars with regard to the petitioner are mentioned and he made a verification of the application and other particulars of the workman on 6-9-80. The check slip and the application form will be in the custody of the recruitment clerk.

14. Basing on evidence of the very same witness by name Ch. Sanyasi Rao and also P. V. Ratnam, who is examined as PW4 in the inquiry, the inquiry officer in his report Ex. M6 came to the conclusion that the charges levelled against the workman are established and before the same inquiry officer, the workman also submitted his defence statement dated 17-6-88, which is marked as Ex. M7 and it discloses that the missing of the documents is the deliberate act and it requires to be investigated first and give its findings before initiating action against him. Sri K. Venketaratnam is now facing a rule 14 inquiry in this particular aspect and he alleged that he had given full charge to his successor Sri Ch. Sanyasi Rao PW-3 which implies that the missing occurred in the letter's tenure as SSS(E) and he submit to that it was in between the two and that he was deprived of the benefit of the material documents to prove his innocence and as such the production of the two officers as witnesses against him is quite unjustified. Therefore, he contends that the allegation of implecation of marks as 80.20% instead 45.8% in the 10th class made against the workman cannot be valid. However, the learned counsel appearing for the workman contends that there are several infirmities in the domestic enquiry held second time and that no inquiry

was held at all but Ex. M7 defence statement in the second time inquiry does not contain any such allegations against the inquiry officer and even Ex. M10 the judgment in O.A. 178/90 discloses that the copy of the enquiry report was given only along with the punishment order to the workman and it is opposed to law and principles of natural justice as was held in the case of Union of India and Others Vs. Mohd. Ramzan Khan AIR 1991 SC 476 and therefore, the punishment order was quashed and it is also observed that it will not preclude the respondents management from supplying a copy of the enquiry report to the applicant and give him an opportunity to make his representation and proceeding to complete the disciplinary proceedings from that stage. Therefore, the stage at which the initial stage i.e. the first inquiry was before punishing the workman, a copy of the enquiry report is to be supplied and asked for show cause notice and therefore, here in this case, there is no infirmity nor any denial of opportunity to the workman so as to contend that the inquiry was held in violation of the principles of natural justice. Therefore, the validity of the domestic enquiry report does not in any way suffer with any infirmity, much less, there is no statutory violation nor any principles of natural justice. Therefore, I held that the enquiry held in this case is valid.

(15) The next question that falls for consideration is whether the findings given by the enquiry officer are with any basis or without any basis? The only material produced by the management to prove the alleged charge is the Z register which is marked as Ex. M9 and the attestation form submitted by the workman which are marked as Ex. M7. The learned counsel appearing for the workman submits that the absence of the original application form and its enclosures which are the basis for the preparation of the Z register are not produced by the management for the reasons best known to the management and they were superseded and as such, much evidence cannot be given to the Z register and so also the attestation form.

(16) As against this, the learned counsel appearing for the management submits that the Z register is also a public document and therefore the entries made there in are relevant evidence. In support of his contention he placed reliance on a decision reported in 1998 (1) SCC 700 between Union of India and Others Vs. A. Nagemelloswar Rao wherein their Lordships of the Supreme Court held that the Tribunal was not a court of appeal and it failed to appreciate that the register was a public document and therefore entry made therein was a relevant evidence. It is also further held in the same judgment that the Tribunal have not taken into consideration that the candidate who secured 70.6% marks was the last one to be appointed and that the respondent did not produce original or duplicate copy of his certificate despite being repeatedly asked to do so. In the same judgment it is also held that wrong declaration of marks in SSC examination but for this wrong declaration, the respondent would not have been given appointment and his dismissal therefore upheld.

(17) There is some force in the contention made by the learned counsel appearing for the management. Here, in this case, the management produced not only the Z register and also the attestation form Ex.

M20 which also contains the incorrect particulars. As per Ex. M20, the attestation form, the workman has given the school of study of Municipal High School, Rajamundry for the year 1971-72 for 10th class. But whereas the workman as WW1 stated that he studied 10th class in S.V.N.A. High School, Chatrayadda, Guntur District. As already stated above, the witness has given provaricating answers with regard to this Ex. M7 the attestation form and ultimately he was pinned down to admit that Ex. M20 is not submitted by him to the management but it bears his photo and it bears his signatures and the name mentioned therein is also his. Therefore, the second charge that was given incorrect particulars is established. So far as the Z register Ex. M21 and the marks entered against application No. 217 belonging to the applicant are 80.20% marks. This percentage of marks was entered basing on the application and the enclosures made therein. MW2 has stated with regard to the maintenance of M21 Z register. It is a public document maintained by the office. MW2 admitted he supervises the preparation of this Ex M21, Z register and his signatures are there at pages 6, 15, 17, 19 and 21 of the Z register marked as Ex. M21. He also deposed that the Z register will be prepared on the basis of the enclosures of the application form name, date of birth and marks obtained etc. after satisfying with the veracity and the truth of the contents of the enclosures. Therefore, by placing reliance on the above said decision of the Supreme Court, this Z register has not evidentiary value and the applicant would not have got the job, had he secured only 45.8% as stated by him and even the Z register also discloses that the last man selected has secured only 71% in the 10th class, the qualifying examination in the competition of candidates bearing application No. 226 Md. Goush Pasha. Therefore, the management in this case clearly established that the applicant having given incorrect particulars with regard to the percentage of marks secured in the qualifying examination namely 10th class as 80.20% and also the place and name of the school where he studied 10th class and hence the charges alleged against him are held proved.

(17) However, the learned counsel appearing for the management contends that the management is telecom department and it is not an industry. This contention has no force because of the pronouncement made by the Supreme Court in 9(1998) SLT page 9 between General Manager, Telecom Vs. S. Srinivasa Rao and Or. Wherein their Lordships of the Supreme Court have pleased to hold that the telecom department of union of India is an industry within the meaning of Sec. 2(j) of the Industrial Disputes Act by placing a reliance on the Bangalore Water supply and Sewerage Board Vs. A. Rajappa & Ors. (1978) 2 SCC 213. Therefore, it is now well settled that the Telecom department of the Union.

(18) The next contention or the initial contention of the workman which I am dealing at the end is that this Tribunal has no jurisdiction for the reason that the workman have initially elected Central Administrative Tribunal as a forum for the redressal of his grievances. He cannot switch over to this Tribunal



and he is precluded by virtue of the principle of doctrine of election. In support of his contention he placed reliance on the following three decisions:

(1) AIR 1918 Madras 489 between K. Hajee Abdul Latceet and another Vs. Official Assignee of Madras wherein in their Lordships of 3 Judges were pleased to hold under Sec. 7 of the Presidency Towns Insolvency Act (1909) that no suit lies to set aside an order passed under Sec. 7 and the proper remedy for the party aggrieved is to appeal against the order. That was a case where the appellants therein made an application in the insolvency of A. S. Monammen Osman Sahib and Co., and asked for a declaration to certain goods which had been seized by the Official Assignee after adjudication were their property and not the property of the insolvents and the said application was dismissed on the merits. Then the appellant brought a suit against the Official Assignee for the declaration which he had asked for in his application in the insolvency. Then their Lordships held that suit do not lie and the proper remedy for the party is to appeal against that order as provided under the statute. The said decision has no application because there is a statutory remedy available under the Presidency Towns Insolvency Act and that the appellants therein have already chosen a forum under a statute and they have to pursue their remedy available therein. Here in this case, initially the workman approached the Central Administrative Tribunal and got an order of dismissal reversed. However, with a direction to proceed the departmental action at the stage at which the punishment was imposed. So the disciplinary authority have started its proceedings at the stage at which it failed to supply the domestic inquiry report before imposing the punishment, and ultimately passed the orders of dismissal by virtue of Ex. M11 dated 7-5-92. This Ex. M11 order is the very order is now being questioned under the provisions of Industrial Disputes Act before this Tribunal. Earlier the workmen questioned the dismissal order dated 13-9-88 which is marked as Ex. M8 and therefore, it cannot be said that the workman has already taken or chosen one forum namely the Central Administrative Tribunal and now he is estopped from choosing this Tribunal. The dismissed order in question before the Central Administrative Tribunal was not the dismissal order in question before this Tribunal. Therefore, the above said decision has no application.

(2) Similarly the second decision relied on by the management is more or less lays down the same principle and it is AIR 1919 Allahabad 229 between Irshad Hussain and others Vs. Gopi Nath wherein their Lordships of Allahabad High Court were pleased to hold that the plaintiff agitated the attachment by the official receiver in insolvency proceedings before the Provincial Insolvency Court and the objections were dismissed and the orders was up held in the appeal, then the plaintiff brought a suit for a declaration that the attached there belongs to him. Then their Lordships were pleased to hold that the suit was barred by the principle of resjudicata. The above said decision also has no application to the facts of this case. Here the earlier dismissal order of the workman was not aside by the Central Administrative Tribunal in O.A. 178/89. Therefore, it cannot be a resjudicata, even otherwise as already observed

by me the order in question before the Central Administrative Tribunal is not the one and the same in question before this Tribunal. So as it may, the workman earlier has chosen the forum in the Central Administrative Tribunal and it has given a finding directing the disciplinary authority to make inquiry from the stage at which it was asked to do and a fresh finding was made by the disciplinary enquiry may be the same finding which was given earlier namely the dismissal. But yet, the finding that is in question and the proceedings of the findings questioned before this Tribunal are altogether different from then what was questioned earlier before the Central Administrative Tribunal. Therefore, the above said decision has no application.

(3) Then the other decision on which the workmen wanted to rely is reported in 1989(3) ALT page 714 (D.B) between B. V. Rao and the Management of Chittivalasa Jute Mills, Chittivalasa, reple. by President (Tech.) and another wherein their Lordships of the High Court of A.P. were pleased to hold under Sec. 2(k) of the I.D. Act that the employee may seek his remedy in case of termination of service either in Civil Court or in Labour Court and he cannot pursue remedies in both for a simultaneously or consequently. That was a case where the employee initially questioned the termination order and claimed reliefs for reinstatement will all benefits or in the alternative awarding damages for wrongful termination in a civil court and the civil court awarded damages. Later he approached the Labour Court for reinstatement. Then he was allowed to pursue his remedy before the Labour court by granting permission to him to withdraw the appeal pending before the appellate court against the part of the decree, disallowed the claim of reinstatement. Therefore, even by applying the said principle, here, this is not a case where the workman have approached both the forums namely the Central Administrative Tribunal and this Labour Court simultaneously nor his claim was decided finally by any one of the forms, so as to say that the workman have approached this Tribunal, consecutively. Admittedly there are no proceedings pending before the Central Administrative Tribunal questioning the very dismissal order in dispute before this Tribunal. Therefore, viewing in any angle, I see no substance in the arguments advanced by the learned counsel appearing for the management.

(19) Therefore, in the light of my aforesaid discussion, the dismissal of the employee in this case is justified and accordingly, I answer the reference in favour of the management and against the workman.

(20) In the result, Nil Award is passed. However, each party is directed to bear its own costs.

Dictated to steno transcribed by her given under my hand and seal of the court this the 2nd day of February, 2001.

K. VEERAPU NAIDU, Presiding Officer

Appendix of Evidence

Witnesses Examined For

Workman

WW1 P. Ganeswar

Management.

MW1 M. Yesundhca

MW2 Ch. Sanyasi Rao.

Documents marked for workman : Nil.

## Documents marked for Management :

- Ex. M1 : Charge sheet.
- Ex. M2 : 19-11-84 Letter addressed to the Management by the Head Master Municipal High School, Rajchoudry.
- Ex. M3 : 27-12-84 Letter addressed to the Management by the Head Master S.V.N.A. High School, Chatrad.
- Ex. M4 : Depositions before the enquiry officer.
- Ex. M5 : 28-6-88 presenting officer's brief.
- Ex. M6 : 23-7-88 Enquiry Officer's report.
- Ex. M7 : 17-6-88 statement of defence by workman.
- Ex. M8 : 30-9-88 proceedings of the Divl. Engineer, Eluru.
- Ex. M9 : 13-3-90 : proceedings of Dy. General Manager, Eluru.
- Ex. M10 : 13-3-1992 Central Administrative Tribunal, Hyderabad bench Judgment in O.A. No. 178/90.
- Ex. M11 : 7-5-1992 : proceedings of the Divl. Engineer, Eluru.
- Ex. M12 : 2-8-1993 proceeding of the District Manager, Eluru.
- Ex. M13 : 20-9-1996 Minutes of the conciliation proceedings.
- Ex. M14 : 27-12-1986 Regulation letter by the workman to the Enquiry Officer.
- Ex. M15 : Defence exhibits marked by the enquiry Officer.
- Ex. M16 : 23-7-86 appointment of enquiry officer.
- Ex. M17 : 4-9-1987 Bias petition filed by workman against the enquiry officer.
- Ex. M18 : 13-1-1988 Director's order on Ex. M17.
- Ex. M19 : 18-11-97 Judgment of the Supreme Court of India Civil Appeal No. 7766/97.
- Ex. M20 : 13-10-1980 Attestation Form.
- Ex. M21 : Recruitment register to the cadre of office assistants II Half year 1980 outsiders.

नई दिल्ली, 28 मार्च, 2001

का. आ. 834—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार रक्षा मंत्रालय, के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण विनाशायत्तनन के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-3-2001 को प्राप्त हुआ था।

[स. एन.-14025/3/2001-आई आर (डी यू)]

कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 28th March, 2001

S.O. 834.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the

Central Government hereby publishes the award of the Industrial Tribunal/Labour Court, Visakhapatnam, as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Defence Ministry and their workman, which was received by the Central Government on 28th March, 2001.

[No. L-14025/3/2001-IR(DU)]

KULDIP RAI VERMA, Desk Officer

## ANNEXURE

IN THE COURT OF INDUSTRIAL TRIBUNAL  
CUM LABOUR COURT VISAKHAPATNAM

## PRESENT :

Sri K. Veerapu Naidu, B.Sc., B.L.,

Chairman & Presiding Officer.

Dated the 6th day of February, 2001

I.T.I.D. (C) No. 11/99

## BETWEEN :

B. Eswara Rao,  
S/o Late Appellanaidu,  
R/o Fodagadi Village,  
Pondurthi Mandalam,  
Beside the Port Office,  
Visakhapatnam Dist

Workman.

## AND

(1) The Secretary,  
The Union of India,  
Ministry of Defence,  
Department of Navy, Navy House,  
New Delhi-110001. ... Respondent No. 1

(2) The Flag-Officer-Command-In-Chief,  
Eastern Naval Command,  
Visakhapatnam-530014. Respondent No. 2

(3) The General Manager,  
Naval Armament Dept.,  
Visakhapatnam-9. ... Respondent No. 3

This dispute coming on for final hearing before me in the presence of Sri K. Balakrishna, advocate for workman and Government Pleader for management. Upon hearing the arguments of both sides and on pursuing the entire material papers on record the court, passed the following :

## AWARD

(1) This is an application filed under Sec. 2A(2) of the Industrial Disputes Act, 1947 to reinstate the workman with all back wages and consequential benefits setting aside the termination orders dated 1-5-97 made in order No. C.E. 9102/95 of General Manager, Eastern Naval Command, Visakhapatnam.

(2) The case of the workman is that he was appointed as Arms Repair Labour and drawing wages of Rs. 2,500/- in the 3rd respondent/management from the year 1981. His services were terminated on the ground that he obtained the job by producing caste certificate that he belongs to 'Yerukula' community which is a Scheduled Tribe and that he belongs to Gavara Community which is a Backward Class and that the same was found to

be bogus by the Dist. Magistrate, Visakhapatnam in his verification report 3-10-98. The case of the workman is that the basic for the verification report issued by the Distt. Magistrate is the enquiry report of the M.R.O. and except the verification report, before the domestic enquiry officer no witnesses are examined nor there was any other material to hold that the petitioner is a Gavara by caste. Therefore, the termination of the petitioner after a lapse of 15 years of service vide proceedings CE 9102/95 of General Manager, Eastern Naval Command dated 1-5-97 is illegal and the same is liable to be set aside and the petitioner is to be reinstated.

(3) On the other hand, it is the case of the management that this court has no jurisdiction and it is the Central Administrative Tribunal by virtue of Sec. 14 of the Chapter III of Central Administrative Tribunal Act, 1985 has got the jurisdiction as the petitioner is a Central Government employee and he belongs to defence services. It is the further case of the management that in pursuance of the complaint No. ATW-34/87 dated 25-5-97 received against the petitioner from the A. P. Scheduled Tribe Employees Association alleging that the petitioner and some others have secured the job under the Government against the reserved vacancies for Scheduled Tribe by producing bogus caste certificate. On receipt of the same, the matter was referred to the Distt. Collector, Visakhapatnam, who in turn submitted a verification report stating that the report of the MRO Pendurthi reveals that the applicant belongs to Gavara Caste and not Yerukula. Hence, the disciplinary action was initiated alleging that he claimed his judicial status as Yerukula instead of Gavara by producing a Scheduled Tribe certificate purported to have been issued by the then Tehasildar, Anakapalli and secured the job against the vacancy reserved for scheduled Tribe on 16-7-81. The workman also furnished a false information at Sl. No. 9(a) and (b) of the attestation form to the effect that he belong to Yerukula religion under the Category of Scheduled Tribe and in fact he belongs to Gavara caste which does not come under Scheduled Tribe. The enquiry officer submitted his report dated 15-7-96 holding that the charges are proved and then the punishment of removal from service was imposed on 1-5-97. The applicant did not prefer any appeal but he preferred a revision petition before the revisionary authority and the same was rejected. The petitioner also filed O.A. No. 1168/96 before the Central Administrative Tribunal, Hyderabad challenging the enquiry proceedings stating that the enquiry was not conducted in accordance with law and the principles of natural justice and it was dismissed vide order dated 7-10-96. While dismissing the O.A. 1168/96, the Central Administrative Tribunal observed that the O.A. is dismissed as premature and the dismissal will not stand in the way of the applicant to challenge the punishment if any awarded to him by the disciplinary authority and if his case is decided against him by the disciplinary authority and the appellate authorities. The applicant is free to approach the Central Administrative Tribunal. The applicant did not approach the Central Administrative Tribunal against the removal, instead, he has chosen his Tribunal. The dismissal order of the petitioner is proper and it

was only after following the procedure as prescribed under Rule 14 of CCS (CCA) Rules, 1965.

(4) A domestic enquiry held to be valid, oral evidence is adduced on either side, Exs. M1 to M19 are marked on behalf of the management

(5) Heard both sides.

(6) The point that arises for consideration in this case is :

Whether the removal order of the petitioner passed by the respondent in its Proceedings C.S. No. 9102/95 of General Manager dated 1-5-97 is void and illegal and consequently whether the petitioner is entitled for reinstatement with all consequential benefits ?

(7) The charge alleged against the petitioner is that he secured the job of Arms Repair Labour by submitting a false caste certificate dated 10-1-76 that he belongs to Yerukula community instead of Gavara Community purported to have been issued by the then Tehsildar at the time of recruitment and he also furnished false information in his attestation form dated 15-7-81/17-7-91 in columns 9(a) and (b) of the form to the effect that he belongs to Yerukula community and a member of Scheduled Tribe whereas he actually belongs to Gavara Caste which is not a Scheduled Caste and that he secured the job against a reserved vacancy for a Scheduled Tribe. The caste certificate in question is marked as Ex. M8 dated 10-1-76 issued by the Tehasildar, Anakapally. As per Ex. M8, the petitioner herein is the son of Appala Naidu residing at Amrutha Puram Village, Anakapalle Taluk, Visakhapatnam District, belongs to 'Yerukulu' community which is recognised as a Scheduled Tribe under the Scheduled Castes and Scheduled Tribes lists (Modification) Order 1956 read with the Scheduled Caste and Schedules Tribe (Amendment) Act, 1956.

(8) The case of the workman is that he belongs to Yerukulu community which is a Scheduled Tribe community. However, the management placed reliance on the verification report Ex. M13, dated 13-2-90 of the Dist. Collector, Visakhapatnam wherein it is clearly stated that the employee belongs to the Gavara Caste and he married Gavara Girl by name Shavani. The MRO, Pendurthi further reported that the employee's father i.e. the workman's father has deposed that he and his family members belonging to Gavara caste and the village elders also reported that they know the family of the employee/workman and that they belong to Gavara caste but not Yerukula and the MRO finally stated that the workman belongs to Gavara caste but not Yerukulu caste.

(9) Ex. M16 is also the verification report of the District Collector, Visakhapatnam and it is Ex. M16 in continuation of this Ex. M13. Ex. M16 is with reference to the genuineness of the original of Ex. M8, the caste certificate. It is stated therein the M.R.O. Anakapalli after due enquiry have reported that Sri K. V. Subbarao was the Tehsildar, Anakapalli as on 10-1-76 and the signature on the xerox copy of the certificate Ex. M7 is not of Sri K. V. Subbarao. Since the signatures do not tally with each

other it is evidently a bogus one and the caste certificate was not given by the revenue authorities. Basing on these two reports a regular enquiry was ordered. Ex. M10 is the enquiry proceedings and Ex. M10 is the enquiry report. Before the enquiry officer the delinquent produced two defence witnesses and one of them is B. Appala Naidu, the father of the workman and the other one is Sri Sadaram Apparao, Ex-sarpanch of Pedagadi village and the delinquent workman have stated before the enquiry officer that he will try to produce school certificate in support of his case and this B. Appala Naidu was examined by the MRO, and he stated before the MRO that he was Gavara by community. Apart from that the father of the workman also stated before the enquiry officer as defence witness that his caste is Gavara and his son's caste i.e. Yerukulu caste and this workman B. Estara Rao is his adopted son from Anurutapuram whereas the Sadaram Apparao, the Ex-sarpanch of Pedagadi Village stated that the family of Eswara Rao was Yerukulu Caste and that B. Eswara Rao is real son (Natural son) of B.A. Naidu. B. Appala Naidu had married in his own caste. He also stated that B. Appala Naidu is mingled with Gavara community and so he is claiming as Gavara. Thus, these two witnesses vary with regard to the fact as to the adoption and it is not even the case of the delinquent B. Eswara Rao that he is the adopted son of B. Appala Naidu. Even though the delinquent claims before the enquiry officer that he is going to submit his school certificate but he did not produce any school certificate before the enquiry officer. However, it is brought on record by the management at the instance of the workman that the school transfer certificate said to have been issued by Z. P. High School, Sabbavaram which was produced by the management as the certificate filed by the workman at the time of his joining into service, and it is marked as Ex. M19. Ex. M19 is only a true copy and not signed by any one and as such the same cannot be relied upon and even otherwise, the caste is not supported to be mentioned therein. In column No. 4 of Ex. M19 as against the nationality and religion of the petitioner it is noted as Indian-Hinds-Yerukulu. As against column No. 5 with regard to the particulars as to the community it is noted as Scheduled Tribes. As contended by the learned counsel appearing for the management, much credence cannot be given to this document for the reason that it is not signed by anyone, it is only a true copy and not attested by anyone and it contains the typed matter. Thus, here this is a case where there is no material on record, for the workman to show that he belongs to Gavara community. The only certificate produced by him which is marked as Ex. M8 was found to be a fabricated one in the verification report as could be seen from Ex. M16. However, the learned counsel appearing for the workman contends that the enquiry with regard to the genuineness or otherwise of the original of Ex. M8, the caste certificate was made behind the back of the petitioner/workman and as such much credence cannot be given to the reports submitted by the District Collector, Visakhapatnam under Exs. M13 and M16.

(10) In support of his contention he placed reliance on a decision reported in 1988-1990 Supreme

Court Labour Judgments page 342 between State of A.P. Vs. Nagam Chandrasekhara Lingam and others wherein one Chandrasekhara Lingam was selected as IAS Officer to the reserved post on the basis of social status certificate and an enquiry into validity of the certificate was held by a commissioner and who did the enquiry without issuing a notice to the candidate and recorded the evidence in presence of the candidate. Hence an order cancelling certificate was passed on the basis of report of commissioner if vitiated.

(11) The learned counsel appearing for the management contends that it is a case where an enquiry commission was ordered and the enquiry was held behind the back of the employee and hence it is a case where the certificate was cancelled even without giving an opportunity for the employee. Hence the enquiry held to be against the principles of natural justice and also in violation of the Articles 338 and 341 with regard to the enquiry commissioner.

(12) A fresh enquiry is ordered by the commissioner of social welfare who is conversant with the matter of enquiry and he should be preferred to a Dist. Judge or a Judicial Officer as ordered by the A. P. High Court and that here a regular enquiry is ordered in terms of Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules 1965 under Ex. M1 and one M. K. Srivastava Manager was appointed as an enquiry officer to enquire into the charges framed against the same B. Eswara Rao and who submitted his report Ex. M6 after making the regular enquiry by affording reasonable opportunity. No doubt, no witnesses are examined before the enquiry officer for the Management. The first charge levelled against the workman is that the workman claimed his social status as 'Yerukulu' instead of 'Gavara' which is actually belongs by producing a Scheduled Caste Certificate (the original of Ex. M8) purported to have been issued by the Tahasildar, Anakapalli at the time of his recruitment. The second charge is that the workman also furnished false information at column No. 9(a) and (b) of the Attestation form dated 15th July, 1981 and the management relied on the material on support of all the two charges is the verification reports Exs. M13 and M16 submitted by the Dist. Collector, Visakhapatnam after making due enquiry and the management did not choose to examine any witnesses in spite of the fact that the workman have insisted for the production of the MRO, Pondurthi, who reported that the employee belongs to Gavara community caste and Sri K. V. Subbarao, then Tahasildar Anakapally who issued the caste certificate dated 10-1-76 to the workman for the purpose of cross-examination. The said enquiry officer as could be seen from Ex. M6, the enquiry report rejected the said request on the ground that the MRO and the Tahasildar are not included in the list of witnesses from any side and he simply relied on the documents presented by the presenting officer. No doubt, the Collector, Visakhapatnam have made reference in the reports Exs. M13 and M16 that on the report submitted by MRO Pondurthi and MRO, Anakapalli he stated that the employee in this case belongs to Gavara community but not Yerukula community and that the caste certificate

dated 10-1-76 issued by the then Tahasildar, Anakapalli is a bogus one.

(13) The counsel appearing for the workman contends that the workman have insisted for the production of the MRO and Tahasildar for the purpose of cross-examination, the enquiry officer ought not to have rejected the request made by the workman and certainly it would amount to the violation of principles of natural justice, and the two reports submitted by the Dist. Collector, Visakhapatnam are only based on the enquiry conducted by the two MROs namely MRO, Pondurthi and MRO, Anakapalli whose reports were not made available to the workman in the domestic enquiry. Therefore, under the circumstances, the enquiry was held behind the back of the workman with regard to his social status by the two MROs and it is a gross violation of principles of natural justice and fair play.

(14) The learned counsel appearing for the management contends that this tribunal has already held that the domestic enquiry held in this case is valid. However, the management contends that here this is not a case where no opportunity was given to the workman to establish his community or his social status and a regular enquiry is ordered and the employee in this case have examined two defence witnesses and the evidence of these two witnesses before Enquiry Officer is not consistent. Apart from those two witnesses, there is no other material nor any document in support of his social status or community was produced by the workman. Therefore, it cannot be said that it is a case where the enquiry was made behind the back and the same could not be used against him. Here this is a case where the Collector, Visakhapatnam made an enquiry with regard to the social status of the workman as well as the genuineness of the caste certificate produced by the workman at the time of his appointment and the report is adverse to the workman. Therefore, a regular enquiry is ordered under Rule 14 of CCS (CCA) Rules, 1965 and witnesses are not examined before the enquiry officer in the departmental enquiry. Hence the production of these two witnesses for the purpose of cross-examination does not arise. The management did not choose to examine the MRO, Pondurthi and MRO, Anakapalli to establish their case but on the other hand, the management placed reliance on the reports submitted by the Collector, Visakhapatnam. Therefore, it is not a case where the enquiry officer have placed reliance on the statements of the MROs of Pondurthi and Anakapalli. Therefore, as rightly contended by the management this is not a case where the employee was denied the opportunity to cross-examine the witnesses on whose statements, the management placed reliance and an ample opportunity was given to the workman to establish his case. Further, the material on record discloses that the workman belongs to Pedawadi and the workman could as well examine the village officers or his own community people, or atleast he could have obtained a certificate from any of the prescribed authorities. Chapter 13 of brochure of reservation of Scheduled Caste and Scheduled Tribes. 13(1) of the Brochure reads as follows :

"13.1 any of the following certificates may be accepted by the appointing authority as

sufficient proof in support of a candidate's claim as belonging to the Scheduled Caste or Scheduled Tribe :—

- (i) Matriculation of school leaving certificate of the birth certificate giving the caste or community of the candidate and place of residence.
- (ii) A certificate in the form given in Appendix 14 issued by one of the authorities listed in Appendix 15."

13.2. reads as follows :

"Where a candidate belonging to a Scheduled Caste or Scheduled Tribe is unable to produce a certificate from any of the prescribed authorities. He may be appointed provisionally on the basis of whatever, prima facie proof he is able to produce in support of his claim subject to his furnishing the prescribed certificate within a reasonable time or if there is genuine difficulty in his obtaining a certificate, the appointing authority should itself verify his claim through the district Magistrate concerned."

13.3. reads as follows :

"An appointing authority may, if it considers necessary for any reason, verify the claim of a candidate through the District Magistrate of the place where the candidate and/or his family ordinarily resides. If after appointment, in any particular case, the verification reveals that the candidate's claim was false his services may be terminated in accordance with the relevant rules/orders."

(15) As per Clause 13(3) the appointing authority in this case verified the claim of the candidate through the Dist. Magistrate who in turn has given the reports Exs. M13 and M16. Clause 13.3 further says that if the verification reveals that the candidate's claim was false, his services may be terminated in accordance with the relevant rules/orders. Thus, here this is a case where the management have followed the procedure contemplated under Chapter 13 and ample opportunity was given to the workman to produce a certificate from any of the prescribed authorities to show that he is belonging to a Scheduled Tribe. The only witness he examined namely the father of the workman. He himself claims that he is Gavara by caste and his son is Yorukulu and that he adopted his son. (the workman) and it is contravened by the other witness namely S. Apparao, the ex-sarpanch. Therefore, under the circumstances, it is quite probable and possible that the employee does not belong to the Yorukulu community and he must have been a Gavara by community. Therefore, the material on record clearly establishes the fact that the workman is only a Gavara by community but not Yorukulu by community. Admittedly Gavara community is not a Scheduled Tribe and it is higher community than Yorukulu community. Therefore, the enquiry officer in this case have rightly came to the conclusion that the employee in this case is not an Yorukulu community man and he belongs to a Gavara community. Therefore, there are no grounds to interfere with the findings given by the enquiry officer. Therefore, it is a case where

the employee have obtained the appointment by producing a false certificate claiming that he belongs to a Scheduled Tribes as against reserved post and if he belongs to Gavara Community he is not at all entitled to get the said post. Therefore, he secured the job by playing fraud and by producing a false certificate. Therefore, he does not deserve to hold the post nor to continue in the said post. Hence the removal order under Ex. M15 and the confirmation of the removal order under Ex. M17 holds good and I see no grounds to interfere with the said findings. Hence I answer the point in favour of the management and against the workman.

(15) In the result, the petition is dismissed and nil award is passed. However, there is no Order as to costs and each party is directed to bear its own costs.

Dictated to steno transcribed by her given under my hand and seal of the court this the 6th day of February, 2001.

Sd/-

Presiding Officer

Industrial Tribunal-cum-Labour Court.

Appendix of Evidence in I.U.I.D.(C) No. 11/99

Witnesses Examined :

For Workman : None.

For Management : None.

Documents Marked :

For Workman : Nil.

For Management :

Ex M1 : 5-12-1991 & 30-10-92 :—Order of appointment to inquiry authority.

Ex. M2 : 5-12-91, 2-11-92 7-2-95 :—Order appointing Presenting Officer.

Ex. M3 : 1-10-91 :—Charge Sheet.

Ex M4 : — :—Daily order sheet.

Ex. M5 : 15-7-96 : Inquiry report.

Ex. M6 : — :—Statements before the inquiry officer.

Ex. M7 : — :—List of exhibited documents.

Ex. M8 : — :—Exhibited documents.

Ex. M9 : — :—List of witnesses.

Ex. M10 : 10-2-93 :—Brief statement of Presenting Officer.

Ex. M11 : 21-2-94 :—Brief statement of defence.

Ex. M12 : 24-10-91 :—Reply to charge sheet.

Ex. M13 : 13-2-90 :—Lr. addressed to management by Dist. Collector, Vp.

Ex. M14 : 12-7-90 :—Lr. to the Dist. Collector, Vsp. by the management.

Ex. M15 : 1-5-97 :—Removal order issued by commodore, Chief Staff Officer.

Ex. M16 : 12-8-93 :—Lr. to the management by the Collector, Vsp.

Ex. M17 : 31-12-97 :—Order of vice-Admiral Chief of Personnel.

Ex. M18 : 7-10-96 :—Order of the Central Admn. Tribunal, Hyd. bench in O.A No. 1168/96.

Ex. M19 : — :—True copy of the transfer certificate.

नई दिल्ली, 27 मार्च, 2001

का.आ. 835 औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स सी सी.एल. के प्रबंधन के संबंध निरोत्रको और उनके कर्मकारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण स. 1, धनबाद के पक्षाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 27-3-2001 को प्राप्त हुआ था।

[स. एन-20012/381/94-आई.आर. (सी-I)]

एस एस. गुप्ता, अवर सचिव

New Delhi, the 27th March, 2001

S.O. 835.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal No. J. Dhanbad, as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. C.C. Ltd., and their workman, which was received by the Central Government on 27-3-2001.

[No. I. 20012/381/94-IR(C-1)]

S. S. GUPTA, Under Secy.

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. I, DHANBAD

In the matter of a reference under section 10 (1)(d) (2A) of the Industrial Disputes Act, 1947.

Reference No. 120 of 1995

#### PARTIES:

Employers in relation to the management of  
Ara Colliery of M/s. C C. Ltd

AND

Their Workmen.

## PRESENT :

Shri Sarju Prasad, Presiding Officer

## APPEARANCES :

For the Employers—Shri B. Joshi, Advocate.

For the Workmen—Shri D. Mukherjee, Advocate.

STATE : Jharkhand

INDUSTRY : Coal.

Dated, the 7th March, 2001.

## AWARD

By Order No. L-20012/381/94-I.R. (Coal-I) dated, the 19th September, 1995 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

“Whether the action of the management of Ara Colliery of C.C. Ltd., P.O. Kuju, Dist. Hazaribagh in terminating the services of Shri Mangar Mahato is justified? If not, to what relief the workman is entitled?”

2. This industrial dispute has been referred to decide whether the action of the management of Ara Colliery of M/s. C.C. Ltd., P.O. Kuju, Dist. Hazaribagh in terminating the services of Mangar Mahato is justified. If not, to what relief the workman is entitled?

3. The brief facts, giving rise to this industrial dispute is that Mangar Mahato had been working as permanent workman at Ara Colliery of M/s. C.C. Ltd. as General Mazdoor. A chargesheet dated 21-4-93 was submitted to the concerned workman, Mangar Mahato, alleging that on 20-4-93 he was caught red handed near Mission School alongwith explosive cartridges and detonators carrying in a bag; by the Security personnels and he has confessed before them that the explosive cartridges and detonators were taken from the Magazine Clerk, Ram Sahay Rabidas. He was handed over to the police and a case was registered by the police for the same set of allegations. The concerned workman, Mangar Mahato had denied the allegation levelled against him in his reply to the chargesheet, but the management was not satisfied with the reply, therefore a domestic enquiry was constituted to enquire into the alleged misconduct and one R. B. Sengupta was appointed Enquiry Officer. The concerned workman participated in the enquiry alongwith co-worker and the enquiry officer submitted its report holding him guilty of the misconduct and on that basis the management has been pleased to dismiss the concerned workman from employment.

4. According to the sponsoring union the charges were false and the domestic enquiry was not fair and proper. The concerned workman has falsely implicated and nothing was recovered from his possession. The management, on the other hand, has submitted that fair and proper domestic enquiry was conducted against the concerned workman and

after the misconduct was proved the concerned workman has been rightly dismissed from service because the misconduct is serious one.

5. Although the sponsoring union has challenged the fairness and propriety of the domestic enquiry but after the evidence were led they have conceded that the domestic enquiry conducted by the management is fair and proper and accordingly by order dt. 9-1-2001 the domestic enquiry conducted by the management has been held to be fair and proper.

6. Since the fairness of the domestic enquiry has already been established now the only question to be decided is whether on reappraisal of the evidence adduced by the management in course of domestic enquiry the misconduct alleged has been proved against the concerned workman? If not, is the concerned workman entitled to any relief?

## 7. Findings:

The management has brought on record the report of one K. P. Singh, Security Officer in which it has been alleged that on 20-4-93 at about 12.30 p.m. the concerned workman, Mangar Mahato was going towards Naya More on bicycle. On suspicion two security personnels checked him and recovered nine explosive cartridges of solix type and ten detonators. In this report it was further alleged that he has given his name as Mangar Mahato. During this enquiry two officers, namely, K. P. Banerjee, S. E. Electrical and Mechanical Department and Kalal Roy, Executive Engineer were present. Thereafter it is alleged that the Security Officer had produced the concerned workman alongwith explosive and detonators to Kuju Outpost. From the report of the Security Officer it appears that at the time of recovery of the alleged explosive cartridge and detonators besides the security officer, himself two security personnels, M. M. Ansari and Shankar Mali were also present and two officials of the colliery were also present, namely, K. P. Banerjee and Kalal Roy. But it appears that during the course of domestic enquiry none of them has been examined by the management nor the management has given any explanation for not examining those witnesses. The management has also filed a carbon copy of F.I.R. lodged by Kedar Prasad Singh, Security Officer but he has not been examined during the course of enquiry. The management has examined only one witness, namely, Mangal Munda, security personnel. In the carbon copy of F.I.R. which was lodged by Kedar Prasad Singh, Security Officer, his name does not find place as witness to the occurrence. The carbon copy of F.I.R. is Ext. M-3 and from this it appears that at the time of occurrence M. M. Ansari, Havildar, Shankar Mali, Security Guard and Md. Nayum, Jeep Driver were only present when the concerned workman was checked and the alleged explosive cartridges and detonators were recovered. But the management has neither examined K. P. Singh nor M. M. Ansari, Shankar Mali or Md. Nayum who were present at the time of alleged recovery of explosive and detonators from the possession of the concerned workman. Even Mangar Munda who has been examined by the management has come to say that K. P. Singh Security Officer had sent



Shankar Mali, Security Guard and M. M. Ansari, Head Security Guard to check Mangar Mahato and they have caught him and brought him to the Security Officer alongwith bicycle in which there was a gunny bag and from the bag 10 detonators and 9 solizex type explosive catridges were recovered and from the gunny bag coal was recovered but there is no mention of recovery of coal from the possession of the concerned workman. However, it appears that the Enquiry Officer has not given any opportunity to cross-examine this witness to Mangar Mahato. Therefore, it is apparent that apart from the fact that the name of Mangar Munda does not find place in the report of the Security Officer submitted to the management nor in the carbon copy of first information report lodged before the police this witness has introduced a new story of recovery of coal also which does not find place either in the charge or in the report of the Security Officer or in the carbon copy of the F.I.R. The management has not examined either the Security Officer or the persons who were allegedly present at the time of alleged recovery of explosive and detonators nor any explanation has been given for their non-examination. Therefore, an adverse inference can be drawn against the varacity of the story of the management.

8. The concerned workman has rather stated in his evidence that actually on that date he was working as Mason Helper in the bungalow of one P. K. Singh where plaster and repairing work were being done. They worked there till 12 noon and thereafter he sought leave for taking meal, but he has been falsely implicated in the present case and nothing was recovered from his possession. The management has examined to deny any repair work in his house, but he has said nothing regarding recovery of explosive and detonators. Thus, we find there is only evidence of one Mangal Munda whose name does not find place as witness in the initial report submitted by the Security Officer or in the carbon copy of F.I.R. and according to the evidence of Mangal Munda also it is apparent that he has not caught the concerned workman alongwith detonators and explosives, rather it was M. M. Ansari and Shankar Mali who had made recovery, but the management has not examined them. Therefore, I find that the evidence of the management is very much shaky and on such evidence it will not be safe to dismiss a workman from service. Had the management examined the other important witness, the matter would have been otherwise. In my opinion, on the basis of such shaky evidence the reinstatement of the concerned workman without back wages will be sufficient punishment. Furthermore, the concerned workman has filed judgement of criminal court from which it appears that he has been acquitted of the charges of possessing explosive and detonators as the prosecution failed to prove the charge. Therefore, on this score also the concerned workman deserves to be reinstated.

9. In the result, I render :—

#### AWARD

That the action of the management in dismissing/retrenching the concerned workman, Mangar Mahato from service is not justified. The reinstatement of

the concerned workman without back wages and consequential benefits will meet the ends of justice. Accordingly, the management is directed to reinstate the concerned workman without back wages and consequential benefits within 30 days from the date of publication of the award.

SARJU PRASAD, Presiding Officer

नई दिल्ली, 27 मार्च, 2001

का.आ 836— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स इस्को के प्रबंधन के संबंध में उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण सं. 1, धनबाद के पचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-3-2001 को प्राप्त हुआ था।

[स एल-20012/361/94-आई आर (सी-1)]

एस एस. गुप्ता, अवसर सचिव

New Delhi, the 27th March, 2001

S.O. 836.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal No. I, Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. IISCO Ltd and their workman, which was received by the Central Government on 26-3-2001.

[No. L-20012/361/94-IR(C-I)]

S. S. GUPTA, Under Secy.

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. I, DHANBAD

In the matter of a reference under Section 10(1)(d)(2A) of the Industrial Disputes Act, 1947  
Reference No. 147 of 1997

#### PARTIES :

Employers in relation to the management of Chas-nalla Colliery of M/s. IISCO

#### AND

Their Workmen.

#### PRESENT :

Shri Sarju Prasad, Presiding Officer.

#### APPEARANCES :

For the Employers: Shri B. Joshi, Advocate.

For the Workman: Shri D. Mukherjee, Secretary,  
Bihar Colliery Kamgar Union

STATE: Jharkhand.

INDUSTRY: Coal.

Dated, the 8th March, 2001



## AWARD

By Order No. L-20012/(361)/94-IR(C-I) dated, the 13th August, 1997 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

"Whether the demand of the Union for regularisation of Shri Khapu Manjhi and 34 others (as per list enclosed) by the management of Chasnalla Colliery of M/s. IISCO is legal and justified? If so, to what relief are the workmen entitled?"

2. This dispute has been referred to decide whether the demand of Bihar Colliery Kamgar Union for regularisation of Khapu Manjhi and 34 others as per list enclosed in the reference order is legal and justified? If so, what relief are the workmen entitled?

3. The case of the sponsoring union is that Khapu Manjhi and other workmen whose names find place in the reference order are working as permanent workmen at Chasnalla Colliery since 1990 and have been performing permanent and prohibited nature of job into underground of the mine under the direct control and supervision of the management. They have been performing permanent and prohibited nature of job of drilling, blasting and loading of coal and sometime also the job of tramming. They have put in more than 190/240 days attendance in each calendar year. The work implements for execution of the job are being supplied by the management and the concerned workmen have been rendering service and producing goods for the benefit of the colliery management. As per Mines Act and Regulations all the underground workmen are bound to work under the direct control and supervision of the competent authority of the management. For all legal purposes the concerned persons are the workmen of the management, but in order to deprive them the benefit of permanent employees their wages are being disbursed through some intermediary and they are being paid wages much less than the prescribed wages as per NCWAs. The management is disbursing their wages through different intermediary in order to camouflage the real question and deprive the concerned persons from the benefit of regularisation and wages as per NCWA. The concerned persons demanded for regularisation, but the management did not heed to them, then they raised the present dispute.

4. The case of the management is that no employer-employee relationship exists between the management and the concerned persons at any point of time, therefore no industrial dispute can be raised by the concerned persons or by any union on their behalf. The management has however admitted that some persons whose names appear in the list of the reference order were member of a registered cooperative society, namely, Motinagar Kamgar Shramik Sahayog Samiti Ltd and they had worked as contractor workers in the year 1991-1992 on a contract awarded to the aforesaid cooperative society by the management. The aforesaid cooperative society is a registered cooperative society being registration No. 25 of 1985 and is an independent body corporate to perform all

jobs in the capacity of a legal entity. The State Government entrusted with the duty and responsibility to encourage and promote the cooperative movement in the State and the District Administration approached the management to provide petty contract work to such local Cooperative Societies and in pursuance of that the management had awarded contract job to the said Cooperative Society in the year 1991 by work order No. 68/335 dated 8-8-91 for establishment of ventilation circuit. The aforesaid work consisted of disposal of debris from the ventilation connection in underground which work was performed by the labourers of the cooperative society in the year 1992 itself and thereafter no contract work was available to be awarded to the aforesaid cooperative society and all the workmen employed by the aforesaid cooperative could not be engaged at Chasnalla colliery. Thus, the Managing Committee of the Cooperative Society terminated the services of the workmen engaged by them in the aforesaid contract work which was purely a temporary job. The Cooperative Society maintained a Form 'B' Register as per provisions of Mines Act in respect of all the persons employed by them on contract job and that register will prove that the contract labourers had worked for a very temporary period. The management has denied that the concerned persons have put in attendance for more than 190/240 days in a calendar year. According to them, the management has got no requirement to engage the concerned persons and the company has got excess work force, therefore, they cannot be engaged as permanent employee of the management. In the circumstances mentioned above, they have prayed to give an award against the demand of the union.

5. Thus, from the pleadings of the parties it appears that the management has admitted that some of the persons whose names find place in the reference order had worked as cooperative workmen on contract job for few months in the year 1991 and also in the year 1992 and thereafter they have not worked in any capacity. The management has not specifically pleaded as to who are those few persons who have worked as contract labour. They have not specifically even denied that such and such persons have never worked as cooperative workmen for a contract job therefore, the plea of the management on this regard is a vague denial what tantamounts to admission. The first objection raised by the management is that no relationship of employer and employees existed between the concerned persons and the management of Chasnalla Colliery. Therefore, the present reference is bad. Therefore, the first question for decision in this reference is whether there is relationship of employer and employees in between the concerned persons and the management of Chasnalla colliery of M/s. IISCO. Then the next question will be whether the concerned persons have been working into underground mine and doing the prohibited category and permanent nature of job like drilling in coal and loading of coal into coal tubs into the underground mine. If so, are they entitled to be regularised as permanent employees of the management and with what relief.

6. Now, let us first of all see whether the sponsoring union has been able to prove that the relationship of employer and employees exists between the concerned persons and the management of Chasnalla colliery of

M/s. HISCO. The sponsoring union in order to establish its case has examined WW-1 Dhananjay Ojha, one of the concerned persons, who has deposed on behalf of all the concerned persons. He has said that they are working at Chasnalla Colliery from the year 1990 into underground mine and they do work, such as, making holes by drill machine and insert detonaters inside holes and thereafter Mining Babu makes blast into the underground mine. Besides these they load coal into trolley and push the trolley for forward transportation. He has further said that they receive cap lamp from the Cap Lamp Stores and their names are mentioned in the Cap Lamp issue Registers maintained by the management. He has further said that they receive implements for work from the Stores of the mines and their attendance is marked in Form 'C' Register at the Attendance Office. He has further said that they work into underground mines as per instruction of Mining Babu and their work is being supervised by Mining Babu and the Manager of the colliery. He has further claimed that their attendance during a calendar year is more than 240 days and their wages are paid by Labour Officer, S. S. Rahman. He has also produced some xerox copy of Form 'C' Register maintained by the management under the signature of Attendance Clerk, Sri Tripathy which has been marked Ext. W-1 series. He has also filed challans issued to them for repair of implements granted by the management which have been marked Ext. W-2 series. He has further said that they have been given vocational training by the management and he has produced letter by which they were sent for vocational training which has been marked Ext. W-3. He has said that they are working continuously from the year 1990 till date. In cross-examination however he has stated that they have not been given appointment letter, Identity Card or pay slip as that of permanent employees. From the documents filed by the Union, Ext. W-1 series it appears that the union has filed xerox copy of Form 'C' register for the years 1993, 1994, 1995, 1996, 1998 and 1999. It has been stated that this Form 'C' register has been maintained by the management by the Attendance Clerk, one Tripathy, but the management has not examined any person to say that the company has no attendance clerk by name Tripathy nor they have produced the Attendance Clerk, Sri Tripathy to deny the genuineness of Form 'C' register which have been marked Ext. W-1 series. The witness of the management, MW-1—M. P. Sinha who is Asstt. General Manager and working at Chasnalla Colliery from the year 1975, has admitted that whoever goes into underground mine his attendance is marked in Form 'C' Register maintained by the management. In Form 'C' register name and designation of the persons who enters into underground mine is noted and his time and exit is noted in that register. This register is maintained as per Mines Act. He has further stated that he could not say if this original register was called for from the management, but the management did not file. From the record it appears that the sponsoring union has filed a petition on 30-9-99 and called for the original of the document from the management. A direction was given to the management to file the original of Form 'C' register for the periods 1993, 1994, 1995, 1996 and 1997 alongwith muster roll for the periods 1992, 1998 and 1999 and notice for vocational training and allow slips for underground job and letter for allotment of Provident Fund Account

and some other documents, but the management did not file the original documents, although xerox copy of the same have been filed by the sponsoring union. The management has not even proved destruction of Form 'C' register. Thus, I find that the management has deliberately withheld Form 'C' register which is the Attendance Register of underground workmen in a mine. The management has not even examined the Attendance Clerk to say that the xerox copy of Form 'C' register which has been filed by the sponsoring union is forged and fabricated documents. Therefore, it is apparent that the management has withheld the original Form 'C' register and xerox copy filed by the sponsoring union has not been shown to be forged and fabricated documents. From Form 'C' register which has been marked Ext. W-1 series I find that the union has filed Form 'C' register from 31-5-93 to 31-12-93 showing that the concerned persons have been working into underground mine every week except Sundays. Thus, I find that in the year 1997 the concerned persons have worked continuously for 7 months. From Form 'C' register of the year 1994 it appears that the concerned persons had been working from 1-1-94 to 21-5-94 continuously every week excluding Sundays. Similarly from Form 'C' for the year 1995 it appears that the concerned persons had been working from 25-9-95 till 30-12-95 continuously every week excluding Sundays. Again from Form 'C' Register of 1996 it appears that they have been working from 1-1-96 continuously every week excluding Sundays upto March, 1996 and again from 25-8-96 to 4-1-97. Similarly, the concerned workmen have worked from May, 1998 to December, 1998 and also from January, 1999 to April, 1999. The concerned persons have also filed wage slips to show that they have worked from January, 1992 to December, 1992. Furthermore the sponsoring union has filed 29 challans which have been marked Ext. W-2 series from which it appears that coal drill, coal drill machine, stone drill repair, have been issued in the name of Motinagar Kamgar Sahayog Samiti Ltd. in the years 1995 to 1998. From these documents it is apparent that the concerned persons have been working into underground mine at Chasnalla colliery right from the year 1992 to April, 1999 continuously every week excluding Sundays and their attendance in a calendar year appear to be more than 190 days. According to the management, Motinagar Kamgar Cooperative Society was entrusted with petty contract of ventilation stopping and removal of debris in the years 1991-92 which ended in the year 1992 itself and the work was of casual nature. Thereafter no contract work has been assigned to the said Cooperative Society. The management has filed work order of the year 1991 to support its plea, but from the documents produced by the sponsoring union it is clear that even after the year 1992 the concerned persons have been working into underground mine for which the management has not produced any paper to show that they were employees of any cooperative society or a contractor. Therefore, in absence of any such paper it must be inferred that the concerned persons have been engaged by the management and therefore there is direct relationship of employer and employees between the management and the concerned persons.

7. Further it appears that although the management has pleaded that the concerned persons working as contractor's labourers under Motinagar Kam-

Sahayog Samiti Ltd., but they have neither pleaded nor proved that the said Cooperative Society was possessing any licence. It is by now settled principle of law that of establishment of the principal employer is not registered under Section 7 of the Contract Labour (Regulation & Abolition) Act and the contractor is not having licence as provided under Section 12 of the said Act then the contractor's workmen shall be deemed to be employees of the principal employer. In the present case the management has neither proved nor pleaded that the said Cooperative Society which was a contractor was having any licence granted under Section 12 of the Contract Labour (Regulation and Abolition) Act. Therefore, the concerned persons must be deemed to be employees of the management of Chasnalla colliery by implication as well as the well settled principle as enunciated above. To support this view a reference may be made to Gujarat Electricity Board Vs. Hind Mazdoor Sabha reported in 1995 AIR SCW 1942 and Air India Statutory Corporation case 1997 Lab. I.C. 365. The management has only examined one witness MW-1 M. P. Sinha who has filed the work order to the said Motinagar Kamgar Cooperative Society, Ext. M-1 is tender letter, Ext. M-2 is the work order and Ext. M-3 is the registration certificate of the Cooperative Society. He has also produced one certificate of registration under Section 7 of the Contract Labour (Regulation & Abolition) Act with respect to Chasnalla colliery and one Form 'B' Register maintaining by the said Cooperative Society in which name of almost all the concerned persons find place. The management has not examined either the Attendance Clerk nor they have produced Cap Lamp Issue Register nor they have produced any Mining Sirdar or Manager of the colliery to deny the fact that the concerned persons have not worked after 1992. They have not filed any paper to show that any contract work was assigned to the said Cooperative Society after 1992. But from the documents filed by the sponsoring union it is clear that the concerned persons have been working right from 1992 to April, 1999 regularly in the job of drilling in coal, loading of coal in trolley and pushing the trolley into underground mine which are admittedly prohibited category of job and therefore as per principle decided by the Hon'ble Supreme Court in the case of Air India Statutory Corporation Vs. United Labour Union reported in 1997 Lab. I.C. 365, the persons engaged in prohibited category of job in which engagement of contractor has been prohibited, the workman doing such job will be deemed to be workmen of the principal employer and they shall be required to be absorbed and regularised in the permanent employment of the principal employer. The concerned persons have categorically stated that payment of wages was being made by the Labour Officer of the company, but the management has not examined him to refute this claim. Therefore, it must be inferred that the management has withheld the Labour Officer otherwise his evidence would have been against the management.

8. From the discussions made above, I find that there is relationship of employer and employees in between the management of Chasnalla colliery and the concerned persons and therefore the reference is not bad.

9. Now, having come to a finding that the concerned persons are the workmen of Chasnalla colliery doing the job of prohibited category, like drilling in coal and loading of coal, making hole into underground mine in permanent and perennial nature of job, therefore they are entitled to be regularised as permanent employees of the management of Chasnalla colliery as Miner/Loader.

10. In the result I render—

#### Award

That the demand of the sponsoring union for regularisation of the concerned persons in the permanent employment of management's Chasnalla colliery and payment according to wages fixed by NCWA, for the post of Miner/Loader is justified. But considering the fact that M/s. IISCO is incurring heavy loss they shall not be entitled for back wages. The management is directed to implement the award by regularising all the concerned persons, Khapa Manjhi and 34 others named in the order of reference within 30 days from the date of publication of the award as Miner/Loader failing which the concerned persons shall be entitled to wages of Miner/Loader from the date of publication of the award.

SARJU PRASAD, Presiding Officer

नई दिल्ली, 27 मार्च, 2001

का.आ. 837.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मेसर्स बी.सी.सी.एल. के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारियों के बीच, अनुबंध से निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण सं. 1, धनबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 27-3-2001 को प्राप्त हुआ था।

[सं. एल-20012/341/93-आई.आर. (सी-1)]

एस.एस. गुप्ता, अवसर सचिव

New Delhi, the 27th March, 2001

S.O. 837.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal No. 1, Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. BCC Ltd. and their workman which was received by the Central Government on 27-3-2001.

[No. L-20012/341/93-IR(C-I)]

S. S. GUPTA, Under Secy.

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO I AT DHANBAD

In the matter of a reference under Section 10(1)(d)(2A) of Industrial Disputes Act, 1947

Reference No. 230 of 1994

#### PARTIES:

Employers in relation to the management of Amlabad Colliery of M/s. B.C.C. Ltd.

## AND

Their Workmen.

## PRESENT:

Shri Saiju Prasad, Presiding Officer.

## APPEARANCES:

For the Employers: Shri H. Nath, Advocate.

For the Workmen: Shri D. Mukherjee, Secretary,  
Bihar Colliery Kamgar Union.

STATE: Jharkhand. INDUSTRY: Coal.

Dated, the 13th March, 2001.

## AWARD

By Order No. L-20012/341/93-IR (Coal-I) dated the 31st August, 1994 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal:

“Whether the demand of Bihar Colliery Kamgar Union that S/Shri Sohar Viswakarma and 9 others (as per list annexed) should be treated as employees of Amlabad Colliery of M/s. B.C.C. Ltd. is justified? If so, to what relief are the persons concerned entitled to?”

2. The brief facts; giving rise to this industrial dispute is that Bihar Colliery Kamgar Union has raised this industrial dispute claiming that Sohar Viswakarma and 9 others whose names find place in the reference order dated 31-8-1994 had been performing permanent nature of job, such as, winder, head gear, conveyor belt, cleaning of conveyor and maintenance of safety machines continuously under the direct control and supervision of the management of Amlabad colliery of M/s. BCCL in the district of Bokaro. According to them all the implements for execution of job were being supplied by the management. Their attendance was being maintained in Form ‘C’ Register and Attendance Register and also in Cap Lamp Issue Register. The concerned persons are the employees of the management of M/s. B.C.C. Ltd. for all purpose. Their attendance in every calendar year was 190/240 days since 1981. But the concerned persons are being paid less wages than the wages prescribed in the NCWA. The concerned persons represented before the management for payment of proper wages then the management was annoyed and the management stopped them from service with effect from December, 1991. Then the sponsoring union has raised the present industrial dispute.

3. The management of Amlabad Colliery of M/s. B.C.C. Ltd. in their written statement has submitted that the concerned persons were never employed by the management of Amlabad Colliery in any permanent nature of job and therefore there is no relationship of employer and employees between the management of Amlabad Colliery and the persons. However, the management has admitted that the concerned persons were working in Rope Winder and for repairing of machineries etc. as contractor’s workmen engaged by M/s. Electro Mech. Corporation, Asansol.

According to them the management of Amlabad Colliery of M/s. B.C.C. Ltd. assigned a contract work for installation and commissioning of Rope Winder and for repairing of machineries etc. on contract on contract basis and the concerned workmen were engaged by the said contractor. The contract work was purely of temporary nature. The contractor left the contract work of their own and therefore the contractor workers also stopped from doing the work. The management has further admitted that the contractor workers were also issued cap lamp from time to time as per practice of the company. Similarly stores materials were supplied for maintenance of the machines against the Store requisition slips. The management has submitted that it has got its own policy and appointments are made through Employment Exchange following Government policy regarding reservation of posts for Scheduled Caste and Scheduled Tribe. The concerned persons want to get employment of M/s. B.C.C. Ltd. by back door method which will offend Articles 14, 16 and 19 of the Constitution of India. The management has further pleaded that they have got surplus work force, therefore, the management has no moral or legal obligation to regularise the concerned persons in its employment as permanent employees.

4. Thus from the pleadings of the parties it is apparent that the concerned workmen had been working from the year 1981 to December 1991 in the job of Koepe Winder and maintenance of machineries etc. But according to the management they were contractor’s workers engaged by a contractor, namely, M/s. Electro Mech. Corporation, Asansol whereas the sponsoring union has pleaded that for all purposes the concerned persons are the employees of M/s. B.C.C. Ltd.

5. The management has examined two witnesses. MW-1 S. D. Singh who has come to say that M/s. Electro Mech. Corporation, Asansol was given contract in the year 1979 and when this witness joined Amlabad Colliery in the year 1982 the work was going on on contract basis. The contract was relating to installation and commission of Koepe Winder. But this witness has further said that the contractor did not complete the work till December, 1991. Thereafter the said work was done departmentally. He has said that the concerned persons were engaged by the contractor. This witness has further proved one letter dated 11/12-5-93 under signature of N. K. Singh, Agent of the colliery which has been marked Ext. M-1. In cross-examination he has admitted that cap lamp and other equipments were supplied to the concerned workmen also when going inside the mine. He has said that they were not supervising the work of those workmen, but ultimately he has admitted that under Mines Act and Regulations it is the competent authority who is to supervise the work inside the mine. He has further admitted that attendance of any person going inside the mine is noted in Form ‘C’ register which is maintained by the colliery. The sponsoring union has filed photo copy of Form ‘C’ register of the year 1988 which has been marked Ext. W-1 which proves that the concerned persons have worked for more than 240 days in a calendar year. This witness has said that he cannot say whether the contractor was having any licence and the establishment of Amlabad Colliery was registered under Contract Labour (Regulation and Abolition) Act, 1970. MW-2 Baijnath Singh is the

Time Keeper of Amlabad Colliery, who has admitted that the concerned persons were engaged to do the work in the said mine, but they were engaged by M/s. Electro Mech. Corporation. He has admitted that Ext. W-1 is the register of contractor's workers in Form 'C' maintained by the management. Thus, from the evidence of this witness it is apparent that the concerned persons were working into underground mine more than 240 days in a calendar year. Admittedly, the establishment of Amlabad Colliery was not registered under the Contract Labour (Regulation and Abolition) Act, 1970 nor the contractor, M/s. Electro Mech. Corporation, Asansol is licensee. Therefore, in view of the settled principle of law in absence of registration of establishment firm under Section 7 of the Contract Labour (Regulation and Abolition) Act, 1970 and licence to the contractor under Section 12 of the said Act the workmen even if engaged by contractor shall be deemed to be the workmen of principal employer i.e. the management of Amlabad Colliery of M/s. B.C.C. Ltd.

6. The sponsoring union has examined WW-1 Sohar Vishwakarma who has said that he alongwith others was working permanently at Amlabad Colliery since 1981 and on each calendar year they have worked for more than 240 days. They have filed photo copy of Form 'C' register maintained by the management which is Ext. W-1 and Cap Lamp Issue Register, Ext. W-2. They have also filed photo copy of issue slips of stores showing that the work implements were issued to them. Thus, it is apparent that the concerned persons have worked for about ten years continuously in a permanent nature of job and according to them, they have not only worked for installation of Koepe Winder, but they have also been doing the job of maintaining conveyor belt and other machineries. Thus, from the materials available on record it appears that the concerned persons had been working in the underground mine of Amlabad Colliery regularly in permanent nature of job for last ten years under a so-called contractor which was not having any licence nor the principal employer was a registered firm under the Contract Labour (Regulation and Abolition) Act, 1970, therefore the concerned persons must be deemed to be the workmen of principal employer. The management has filed work order dated 13-11-97 which has been marked Ext. M2 to show that the contract work was given to the said firm but MW-1 has admitted that the so-called contractor left the work incomplete and the work was completed departmentally. This shows that the said work continued even after the contractor has left the work unfinished. Therefore, I find that since the concerned persons were working for about ten years continuously on a permanent nature of job and because the employer's firm was neither registered under the Contract Labour (Regulation and Abolition) Act nor the contractor was having any licence the concerned persons must be deemed to be the workmen of the management. Therefore it is apparent that they have been illegally stopped from work from December, 1991 without compliance of Section 25-F of the Act and therefore the concerned persons are entitled for regularisation as permanent employees of M/s. B.C.C. Ltd. in Amlabad Colliery. But taking into account that M/s. B.C.C. Ltd. is

running in loss no order should be made for payment of back wages.

7. In the result, I render—

#### AWARD

That the demand of Bihar Colliery Kamgar Union for treating Sohar Vishwakarma and 9 others as employees of M/s. B.C.C. Ltd. is justified and they are entitled for absorption as permanent employees of M/s. B.C.C. Ltd. The management is directed to absorb Sohar Vishwakarma and 9 others as permanent employees within 30 days from the date of publication of the award failing which they shall be entitled for wages as prescribed under NCWA from the date of publication of the award.

SARJU PRASAD, Presiding Officer

नई दिल्ली, 27 मार्च, 2001

का.आ. 838—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स बी.सी.सी.एल. के प्रबंधन के संबंधित नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण सं. 1, धनबाद के पचाट को प्रकाशित करती है, जो के वीप सरकार को 27-3-2001 को प्राप्त हुआ था।

[स. एल-20012/207/92-आई. आर. (सी. I)]

[एल-20012/286/92-आई.आर. बी. I.]

एस.एस. गुप्ता, अवसर सचिव

New Delhi, the 27th March, 2001

S.O. 838.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, No. 1 Dhanbad, as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. B.C.C. Ltd., and their workman, which was received by the Central Government on 27-3-2001.

[No. L-20012/207/92-IR(C-I)]

L-20012/286/92-IR(C-I)]

S. S. GUPTA, Under Secy.

#### ANNEXURE

BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL NO. 1 AT DHANBAD  
PRESENT :

Shri Sarju Prasad, Presiding Officer.

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947

Reference No. 54 of 1994

Employers in relation to the management of  
Jalgora Colliery of M/s. B.C.C.L. and  
their workman,

[Ministry's Order No. L-20012/207/92. IR (Coal-I)  
dated, the 18th March, 1994].

Reference No. 117 of 1994

Employers in relation to the management of Jealgora Colliery of M/s. B.C.C.L. and their workmen.

[Ministry's Order No. L-20012/286/92-IR(Coal-I) dated, the 6-5-94]

#### APPEARANCES :

On behalf of the BCCL.—Shri B. Joshi, Advocate.

On behalf of the IISCO.—Shri R. S. Murthy, Advocate.

On behalf of the workman.—Shri S. N. Goswami, Advocate.

STATE : Bihar. INDUSTRY : Coal.

Dated, Dhanbad, the 14th March, 2001

#### AWARD

The Government of India, Ministry of Labour in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following disputes to this Tribunal for adjudication vide their Orders referred to above.

The Schedule in Reference No. 54 of 1994

“Whether the claim of Shri Bihari Prasad and 54 others (as listed in the Annexure) engaged as contract labour at Jealgora Colliery of M/s. BCCL and the management of M/s. IISCO, for regularisation of their services is justified? If so, from what date?”

Schedule in Reference No. 117 of 94

“Whether the claim of Shri Bihari Prasad and 54 others (as listed in the Annexure) engaged as contract Labour at Jealgora Colliery of M/s. BCCL and the management of M/s. IISCO, for regularisation of their services is justified? If so, from what date?”

2. In both these two reference cases a common question of facts and laws are involved. Therefore, in both the cases a common Award is being passed. Both the cases have been heard analogously.

3. The dispute in Ref. No. 54/94 relates the question of regularisation of Bihari Prasad and 55 others as per list in the annexure to the order; who are engaged as contractor labour in Jealgora Colliery of M/s. BCCL and the management of M/s. IISCO. Similarly in reference No. 117 of 1994 the dispute relates to regularisation of Shri Kubernath Ram and 44 others as per list annexed to the reference Order who were working through contractor M/s. R. B. Traders and Shri R. P. Agarwal contractors of M/s. BCCL. In both the reference cases there are three common persons in Sl. No. 53 Bholaram 54 Kubernath Ram and 55 Bhim Manjhi in Ref. 54/94 finds place their name in Sl. Nos. 13, 1, 40 respectively in Ref. Case No. 117 of 1994.

4. Both the disputes have been sponsored by Bihar Colliery Kamgar Union. According to the sponsor-

ing union all the concerned persons have been engaged to perform the duty for truck loading of coal at the depot of Jealgora Colliery in Lodna Area of M/s. BCCL from where coal is being transported in trucks to Lodna Coke Plant in Bhowra Area in M/s. BCCL and washery of Chasnalla colliery of M/s. IISCO. They are loading coal in trucks which is permanent and perennial nature of work within the premises of Jealgora colliery of M/s. BCCL continuously for more than 5 years and their attendance in each calendar year is more than 240 days. The appropriate Government i.e. the Central Government by notification under Section 10 of the Contract Labour (Regulation & Abolition) Act, 1970 has been pleased to prohibit engagement of contract labour for coal loading and unloading besides 4 other jobs by Notification dated 1-2-75. Thus the loading or unloading coal in truck is a prohibited category of job in which the appropriate Government has prohibited engagement of contractor or contract labour but yet the management of M/s. BCCL and IISCO, is getting the work of loading of coal done in trucks by the concerned persons but their wages is being paid through contractor which is much less than the rate prescribed under NCWA. Since the concerned persons have been engaged in prohibited category of job. Therefore they are workmen of M/s. BCCL and they are entitled for regularisation with the difference of a back wages as that of permanent workmen of the BCCL.

5. The case of the management of BCCL is that the present reference is bad in law because no relationship of employer and employee exists between the concerned persons and the management of BCCL. As a matter of fact M/s. IISCO, has a steel plant at Burnpur and in order to meet the requirement of coal for its steel plant at Burnpur the IISCO, has got its own three captive mines at Chasnalla, Jitpur and Ramnagar but the aforesaid company i.e. the IISCO, requires some selected ROM coal from Jealgora Colliery coal seam for the purpose of blending with the washery grade coal and to utilise the same for the manufacture of hard coke for feeding the same in its steel plant. The management of M/s. BCCL has permitted to lift the selected quality of coal from Jealgora Coal depot by M/s. IISCO, which is being lifted by M/s. IISCO, by engaging its own supervisor and its own labour from the coal dump of Jealgora Colliery and get the same transported through a transport contractor M/s. R. B. Traders. Thus the entire work of picking and lifting of coal of required quality from coal dump of Jealgora Colliery is being done by engaging its own supervisor and its own labour of M/s. IISCO. Few of the concerned persons might have worked in the job of transporting of coal and on the job of picking and selection of coal but they are all the labourer of M/s. R. B. Traders or M/s. IISCO. Further according to the management of M/s. BCCL the loading of coal after picking and selection is mostly done by mechanical means and only in the case of mechanical failure the loading work is done manually by engaging contractor labour under the supervision and control of M/s. R. B. Traders. So far the management of M/s. BCCL is concerned they have nothing to do with the employment of the concerned persons or any of them nor has got any obligation to regu-



larise them because the BCCL has got its surplus labour. Further according to the management of BCCL there was some short fall in the production of coking coal from the mines of Lodna Colliery on account of temporary set back due to outbreak of fire and omission of poisonous and noxious gases from one district of Mines which took about 3 to 4 months to bring the situation to normal. During that period i.e. from June, 1991 to September, 1991 sufficient quantity of coking coal could not be supplied to Lodna Coke Plant from Lodna Colliery and during that period the management of Lodna colliery had engaged a contractor M/s. R. P. Aggarwala to transport coal from Jealgora colliery to meet the demand of Lodna Coke Plant. The transporting job was confined to transportation through dumpers according to the need of coke plant and this was not a regular job. The contractor R. P. Aggarwala had engaged dumper which were being loaded with coal at Jealgora by mechanical means and coal used to be unloaded at Lodna Coke plant with the help of Hydraulic device fitted with the dumper. No manual labour was engaged on the job of loading and unloading of coal in the process of transportation contract carried out between the above period i.e. from June, 1991 to September, 1991. Further according to the management it is true that by notification dated 1-2-1975 loading and unloading of coal was a prohibited category of job in which the Central Government by notification issued under Section 10 of the Contract Labour (Regulation and Abolition) Act, 1970 has prohibited engagement of contract labour but the notification was subsequently modified by a subsequent notification No. S.O. 2063 dated 21-6-88 in which the engagement of contract labour was permitted on loading of coal where there is mechanical or electrical failure bringing a halt to the mechanical loading of coal into trucks or railway wagons and also permitted engagement of contract labour on loading of coal in case of irregular supply of wagons by railways. Thus the loading and unloading of coal was not absolutely prohibited rather the provision was relaxed by subsequent notification in case of emergency like failure of mechanical device either by electricity failure or mechanical defect or in case of irregular supply of wagons by railways. We are not concerned with the irregular supply of wagon in the present case because the case of the sponsoring union is with respect to loading of coal in trucks or dumpers of transporting contractor M/s. R. B. Traders and R. P. Aggarwala. Therefore, at best the management can take place of exceptions only in case electrical failure or mechanical failure which must be for a temporary period.

6. The management of IISCO has also filed its W.S. in which it has taken a plea that IISCO, has been made unnecessarily a party in the reference case because the claim of the concerned persons is for regularisation in the employment of M/s. BCCL. However, the management of IISCO, has admitted that they have engaged transporting contractor for transport of coal from Jealgora Colliery Coal depot of BCCL to Chasnalla coal washery but they have nothing to do with the loading of coal at Jealgora Coal depot and the unloading was being done by mechanical means. Thus they have denied any liability to regularise the concerned workmen as loader in the employment of M/s. IISCO, or payment of wages in accordance with the NCWA.

7. Thus from the pleading of parties it is admitted that M/s. BCCL has got a coal depot at Jealgora from where coal was being transported to Chasnalla coal washery of M/s. IISCO after picking up foreign materials from the coal like stone etc. It is also admitted that one M/s. R. B. Traders were engaged a contractor for transporting the coal by M/s. IISCO, but according to the management of M/s. BCCL the loading of coal was not being by manual labour rather the same was done by mechanical means and only in case of failure of electricity or failure of machines some manual labour might have been engaged which is permissible in view of the amendment of prohibition by Central Govt. in the job of loading and unloading of coal by notification dt. 21-6-88. However, the sponsoring union has claimed that the loading work was being carried out manually by the concerned persons under the direct supervision and direction of the management of M/s. BCCL and for more than 5 years continuously and in every calendar year their attendance was for more than 240 days. Therefore, they are entitled for regularisation on the ground that they are doing the permanent and perennial nature of job which is prohibited by issue of notification by the Central Govt. for engagement of contract labour. According to the concerned persons they are being exploited by the management by making less payment than the wages prescribed under NCWA and they and they are being shown as contractor labour but in fact they are the employees of M/s. BCCL.

8. Thus the points to be considered in this case are whether the concerned persons were engaged in permanent or perenial nature of job of loading of coal in trucks i.e. the job in which engagement of contractor has been prohibited? If so, whether they shall be deemed to be the workmen of BCCL. The next question to be decided is whether the concerned persons are entitled for regularisation as per permanent employee of M/s. BCCL/IISCO? If so, from which date and with which benefits.

## FINDINGS

9. The management of M/s. BCCL has examined one witness who is MW-1 Murlidhar Banerjee, a Senior Sales Officer at Bhowra Area. He has come to say that Jealgora Colliery falls under Bhowra Area and from Jealgora colliery coal during the period was being sold to IISCO'S Chasnalla Coal Washery. The entire work of transportation of coal from Jealgora Colliery to Chasnalla Washery was being done by a contractor firm namely M/s. R. B. Traders. He has produced the work order issued in favour of R. B. Traders by M/s. IISCO, which has been marked Ext. M-1. From perusal of Ext. M-1 it is apparent that the management of IISCO has issued work order dt. 5-5-94 to M/s. R. B. Traders in which the rates have been prescribed for doing different works. The first item of work is loading of washed coal, middling raw coal from ground stock into dumpers/truck @ Rs. 6.00 per tonne. The next item is transported to washed coal/middlings from washery to Tasra siding and loading into wagons and 3 work is loading of raw coal into dumpers/trucks at Jealgora/Hariladih/Bararee Colliery its transportation to Tasra

siding or Chasnalla washery after breaking and picking. This contract was for a period of 2 years with effect from 5-5-94 to 4-5-96. Thus from the work order it is apparent that transport was given work order for loading of raw coal into dumpers for a continuous period of 2 years. Prior to this work order also it is admitted that the transporting of coal was being entrusted to M/s. R. B. Traders. Those work orders have not been filed either by the contractor or by M/s. BCCL or by the management of IISCO. In the work order there is no mention that the loading of the coal will be done by mechanical process. Thus the work order Ext. M-1 which has been filed by M/s. BCCL goes to show that the contractor was assigned job of loading of coal into truck for a period of 2 years from 5-5-94 to 5-4-96 and prior to this period also this work was being done by the said transporting company M/s. R. B. Traders.

10. MW-1 has further produced three letters from M/s. R. B. Traders which has been marked Ext. M-2 to M-2/2 from which it appears that M/s. R. B. Traders has written letter to the Project Officer of BCCL at Jealgora Colliery that in view of work order dt. 28-12-92 for the transportation of raw coal from Jealgora Colliery to Chasnalla washery he has engaged about 20 trucks whose number find place in Ext. M-2, 24 trucks whose number find place in Ext. M-2/1 and 21 trucks whose number find place in Ext. M-2/2 for the job of transporting of the raw coal from Jealgora Colliery to Chasnalla washery. A permission has been sought from the Project Officer for allowing those trucks for transportation of coal from Jealgora Colliery to Chasnalla washery. Thus it is apparent that daily atleast 20 trucks were plying in which coal was being loaded and transported from Jealgora coal depot of Chasnalla Colliery and Tasra Railway siding. The work order dt. 28-12-92 has not been filed but it is apparent for similar work of transportation of coal from Jealgora Colliery M/s. R. B. Traders were engaged as transporter including the job of loading of coal in trucks. One can easily imagine that atleast 20 trucks of coal were plying daily for transporting of coal from Jealgora to Chasnalla washery or Tasra colliery siding and each truck might be carrying coal in number of trips. Thus this document goes to show that loading of coal in trucks and transporting of the coal to coal washery was a permanent and perennial nature of job.

11. MW-1 has further produced two permits Ext. M-3 which is dt. 23-7-94 and M-3/2 which is dated 21-6-94 from which it appears that 8000 M.T. of raw coals was to be transported in the month of June, 1994 and similar 8000 M.T. of raw coal was to be transported in the month of July, 1994. Thus this permits clearly show that in each month 8000 M.T. of raw coal was being transported from Jealgora Colliery to Chasnalla washery of M/s. IISCO and naturally the loading was being done manually in these trucks right from the year 1992 to 1996. Besides this the management has also admitted that M/s. BCCL has engaged transporting contractor M/s. R. P. Agarwala for transportation of coal from Jealgora colliery of M/s. BCCL to Chasnalla coal washery from the month of June,

1991 to September, 1991 but the management has not filed any paper regarding engagement of R. P. Aggarwala & Co. as transporting contractor. The management has suppressed those papers. Therefore an adverse inference had to be drawn against the management and it must be inferred that the management has suppressed those documents only because the same would have falsified its case that the coal were being loaded by mechanical device and would have supported the case of the concerned persons that they were loading coal into truck and it was being carried not only to Chasnalla Colliery but also Patherdih Coal Washery of M/s. BCCL. The management has not further examined any other witness but in cross-examination the management's witness No. 1 has admitted that BCCL load coal on rail without charging for its F.O.R. (free on rail). This F.O.R. is applicable to all types of consumers. Therefore it must be applicable in case of loading of coal in trucks for being transported to Chasnalla Washery of M/s. IISCO. In cross examination he has further admitted that he does not know if any of the concerned person had loaded coal from Jealgora Colliery from 1985. However, he has admitted that supervision of quality of coal loaded is done by the personnel of the management of BCCL.

12. The sponsoring union examined only one person who is WW-1 Kuber Nath Ram. He has come to say that he along with 100 other labourers are doing the job of truck loading at No. 2 siding and No. 7 siding of Jealgora Coal depot of M/s. BCCL. Their work is being supervised by the loading clerk of M/s. BCCL who supervises their work also. They are allotted work groupwise by loading clerk. The loaded trucks or dumpers carry coal to Patherdih Coal Washery. They also receive work implements such as spade, Belcha etc. from the management and in case of any injury they get treatment in the hospital of the management of BCCL. He has further stated that the management of BCCL has provided them land for constructions of hut. He has filed bio data of the concerned workman which have been marked Ext. W-1 to W-1/88. He has filed 21 payment slips showing payment of wages in presence of L.E.O. (C). He has also filed I.D. Card issued to them after inspection by the L.E.O. (C) of Bihar Government. He has come to say that their attendance in each calendar was more than 240 days. From the payment sheets Ext. W-2 to W-2/20 it appears that the payment of wages has been made to them in presence of L.F.O. (C) after complaint was filed before the ALC(C) regarding non-payment of wages. Further, they have filed the photo copy of medical slips to show that they were getting treatment in the hospital of M/s. BCCL. The management of BCCL or IISCO has not examined M/s. R. B. Traders nor they have filed the wagesheets of R. B. Traders or R. P. Agarwala to refute the claim of the concerned persons that they were loading trucks of these transporters at Jealgora Coal depot. Under Section 21 of the Contract Labour (Regulation & Abolition) Act, 1970 the duty of the principal employer is to see that the contractor labourers are properly paid their wages and therefore it was the duty of the management of M/s. BCCL as the management of IISCO to supervise the payment of wages to loading workers who are loading trucks of



the transporters. The wagesheets could have falsified the claim of the concerned persons but neither the management of BCCL nor the management of IISCO has filed any such wagesheets nor they have examined the transporting Agent to refute the claim of the concerned persons. Therefore, I find that there is sufficient materials on record to show that the concerned persons were working as contractor labours and were loading coal regularly for several years daily and therefore, they were engaged in permanent and perennial nature of prohibited category of job. Therefore, if we apply the principle laid down by Hon'ble Supreme Court in the case of Air India Statutory Corporation Authority versus United Labour Union reported in 1997 Lab. I.C. Page 365 the concerned persons must be deemed to be the workmen of the M/s. BCCL because it is the duty of M/s. BCCL to get coal loaded free on truck as admitted by MW-1 who is the Senior Sales Officer of M/s. BCCL. Therefore there is relationship of employer and employee between the concerned persons and the management of M/s. BCCL and therefore in view of the aforesaid rulings of the Hon'ble Supreme Court the concerned persons who were engaged in permanent and perennial nature of job in which contract labour was prohibited are entitled to be absorbed and regularised as permanent workmen of M/s. BCCL and they are also entitled for wages of Group III as prescribed in NCWA. But it appears that there is a reference of 100 workmen in both the reference case out of which 3 names are common as indicated above and the sponsoring union has filed only 89 biodata, photographs and affidavits of the concerned persons. Therefore, only the 89 persons who have filed affidavit and bio data which has been marked Ext. W-1 to W-1/88 are only entitled to be regularised in the permanent employment of M/s. BCCL. Those persons who have not been filed biodata, affidavits will not be entitled for such regularisation. But considering the fact that M/s. BCCL in itself is running in loss, they will not be entitled to any back wages. However, they shall be entitled to be regularised in the employment of M/s. BCCL within 30 days from the date of publication of the Award and shall also be entitled for wages from that date.

In the result, the following Award is rendered :—

“The demand of the sponsoring union for regularisation of 89 persons of 100 persons whose name find place in the Reference order of both these reference case No. 54/94 and 117/94 in whose favour biodata has been filed marked Ext. W-1 to W-1/88 are entitled to be regularised in the employment of BCCL without back wages within 30 days from the date of publication of the Award and failing which the concerned persons in whose favour biodata Ext. W-1 to W-1/88 has been filed shall be entitled to claim wages as per NCWA from the date of publication of the Award.”

This is my advice.

SARJU PRASAD, Presiding Officer

1064 GI/2001—13

नई दिल्ली, 27 मार्च, 2001

का.आ. 839.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स बी.सी.सी.एल. के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध मन्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक प्रतिकरण स. 1, धनबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 27-3-2001 को प्राप्त हुआ था।

[सं. एल-20012/(102)/90-आईआर(सी-1)]

एस.एस. गुप्ता, अवसर सचिव

New Delhi, the 27th March, 2001

S.O. 839.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal No. 1, Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. B.C.C. Ltd. and their workman, which was received by the Central Government on 27-3-2001.

[No. L-20012/(102)/90-IR(C-I)]

S. S. GUPTA, Under Secy.

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. I, DHANBAD

In the matter of a reference under section 10(1)-(d)(2A) of the Industrial Disputes Act, 1947.

Reference No. 226 of 1990

#### PARTIES :

Employers in relation to the management of  
Kedla North Colliery of M/s. B.C.C. Ltd.

AND

Their Workmen

#### PRESENT :

Shri Sarju Prasad, Presiding Officer.

#### APPEARANCES:

For the Employers : Shri D. K. Verma, Advocate.  
For the Workmen : Shri B. Lal, Advocate.

STATE : Jharkhand. INDUSTRY : Coal

Dated, the 12th March, 2001

#### AWARD

By Order No. L-20012(102)90-IR(Coal-I) dated the 26th September, 1990 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

“Whether the two punishment both dated 18-10-88 by reverting Raj Kumar Singh an M.V. driver to Cat. II as Truck Khalasi

and forfeiture of his two consecutive annual increments respectively and the third punishment dated 21/24-10-88 dismissing the workman and forfeiting a portion of his wages other than the subsistence allowance, met out by the management of Kedla North Colliery is justified? If not, to what relief the workman entitled?"

2. The brief facts; giving rise to this present reference is that Raj Kumar Singh was a Motor Vehicle Driver at Kedla North Colliery. He was served with a chargesheet dated 5-1-88 alleging that on 4-1-88 when the General Manager (H) was discussing with the Addl. CME/Project Officer of Kedla Open Cast Project, the concerned workman entered into the office and started talking in a very hot and ungentle manner, as the concerned workman was never given sufficient time to see the General Manager in his office. He insisted for giving him time to hear his demand. The General Manager tried to convince him that he should first talk to Personnel Manager and fix up date and time, so that his grievance can be looked into properly. But instead of getting pacified he was flared up, got furious and misbehaved with the General Manager saying that he has seen so many General Managers like him and he can tackle him properly and he will do so outside his office. He further said to the General Manager that he was under estimating the concerned workman and he does not know his nuisance value. The concerned workman used to remain under suspension months after months, but even then cared nobody. Nobody can touch him and he finally warned the General Manager. When the Project Officer wanted to intervene he too was misbehaved by the concerned workman saying "you shut up; otherwise he shall see you also. He is talking to General Manager not with the Project Officer. Project Officer is 'Chamcha' of General Manager." Thus, it is alleged that he has committed misconduct under Model Standing Orders 17(i), (e), (g), (r) and (t). The concerned workman did reply to this chargesheet denying the allegation but the management did not find the reply satisfactory, therefore a domestic enquiry was constituted against the concerned workman to enquire into the aforesaid chargesheet dated 1-1-88. In the domestic enquiry the concerned workman did not participate although he had prayed for adjournment of the enquiry on the ground of his illness on several occasions. Thereafter the management had proceeded with exparte enquiry. The Enquiry Officer found him guilty and on that basis by order dated 18-10-88 the concerned workman was demoted from the post of M.V. Driver in Cat IV to the post of Truck Khalasi in Category-II. The concerned workman was again submitted with another charge-sheet dated 29-1-88 alleging that on 28-1-88 at about 4.20 p.m. when the Project Officer was in his office doing official work the concerned workman entered into his office without taking his permission and started shouting on the Supdt. of Mines H. R. Saha who was sitting in the office of the Project Officer for some discussions. He was pressing the Supdt. of Mines to receive the Challan dated 25-1-88 of Truck No. BPV-9809 to which Supdt. of Mines was not accessible without enquiring into the matter. When the Project Officer asked him not to shout and behave in proper manner he turned to the Project Officer abused him in filthy languages and tried to assault him. It was alleged that in the past also he had misbehaved with the officer of the

company. The concerned workman replied to the chargesheet refusing the allegation and alleged that he is union leader, therefore he has been served with false chargesheet. The management did not find this reply satisfactory and again constituted an enquiry. This time also the concerned workman did not participate in the enquiry, although he had filed application to adjourn the enquiry on the ground that he is in jail custody. But the management proceeded with ex-parte enquiry and held the concerned workman guilty of the misconduct. In the result, the management passed an order of stoppage of two increments of the concerned workman by letter dated 18-10-88.

3. The concerned workman was yet served with third charge-sheet dated 1-2-88 alleging that on 31-1-88 at 8 A.M. the concerned workman along with one Kamaldeo Sharma of Kedla and Ishwar Mahto of village Behara with 3 or 4 unknown persons boarded in Trakker tried to stop the jeep of C. D. Singh, Dy. CME, Kedla Open Cast Project. But Mr. Singh managed to proceed ahead in the jeep and closed himself in the office of the colliery. But the concerned workman chased him, went into the office of the colliery, abused him and started throwing big stones with intent to break the door of the office. It is further alleged that when the security personnels tried to stop he took up revolver and tried to intimidate the security personnels. This time also the concerned workman submitted his reply denying the allegation but the management did not find reply satisfactory and again constituted a domestic enquiry. This time the domestic enquiry was held in presence of the concerned workman who participated in the enquiry, cross-examined the witnesses of the management and also adduced as many as 8 witnesses in his defence. The Enquiry Officer submitted report holding him guilty and on that basis by letter dated 21/24-10-88 the concerned workman has been dismissed from service with effect from 24-10-88.

4. The concerned workman in its written statement has alleged that no domestic enquiry was held in his presence and he has been punished with demotion and stoppage of two increments and thereafter on the basis of biased Enquiry Officer the concerned workman has been dismissed for his trade union activities. According to the concerned workman the enquiry conducted by the management is not fair and proper and the finding of the Enquiry Officer is perverse and there is no evidence to support the finding of the Enquiry Officer. Therefore, according to the concerned workman the management was biased against him due to union activities and for that reason he has been punished as mentioned above which are all illegal and the concerned workman is entitled to reinstatement with full back wages. Further, according to him for the same allegation of alleged occurrence dated 31-1-88 an F.I.R. was lodged and the concerned workman was put to trial but he has been acquitted from the criminal court.

5. The case of the management, on the other hand, is that the concerned workman has committed misconduct as defined under the Standing Orders applicable to the said colliery in Section 17 under various clauses and the management has issued him chargesheet for those misconduct. But the reply of the concerned workman was not found satisfactory, therefore three different enquiries were set up to

enquire into the charges contained in three chargesheets mentioned above. The management conducted a fair and proper enquiry to enquire into the charges and the Enquiry Officer found the concerned workman guilty of all the charges, therefore the management due to misconduct committed as alleged in charge-sheet dated 5-1-88 demoted him from M. V. Driver Category-IV to Truck Khalasi Category-II and due to commission of charges as contained in chargesheet dated 29-1-88 two increments were stopped and finally due to misconduct committed as many in chargesheet dated 1-2-88 the management has dismissed the concerned workman with effect from 24-10-88. The management has further submitted that the concerned workman is incorrigible and he always misbehaves with the senior officers and therefore considering his past record the management has rightly dismissed him from service. The management has further prayed to decide the fairness and propriety of the domestic enquiry as preliminary issue which was taken up as preliminary issue. But after the documents were filed by the management, the lawyer of the concerned workman, Sri. J. P. Singh fairly conceded that the domestic enquiry conducted by the management is fair and proper. Accordingly by order dated 4-4-94 the domestic enquiry has been held to be fair and proper.

6. Now, since the fairness and propriety of the domestic enquiries have been decided in favour of the management the only question to be decided is whether the finding of the Enquiry Officer is just and if so, whether the punishment awarded by the management requires to be interfered by this Tribunal.

#### FINDINGS :

7. So far the chargesheet dated 5-1-88 is concerned I find that the management has given sufficient notice to the concerned workman, thereafter had proceeded with ex-parte enquiry and in the domestic enquiry one R. N. Mazumdar, Personnel Officer, Kedla Opencast Project gave his written statement supporting the allegations levelled in the chargesheet. They have also examined S. K. Pandey, Security Officer, who has given his written statement supporting the allegations. The General Manager, Sri C. Prakash has also given his written statement and all these witnesses have not been challenged by cross-examination as the concerned workman did not take part in the domestic enquiry inspite of notice of enquiry to him. Thus, I find that there is sufficient materials to hold the concerned workman guilty of the charge dated 5-1-88, and there is nothing to hold that the report of enquiry is perverse. Similarly, if we go through the domestic enquiry file relating to chargesheet dated 29-1-88 we find that the concerned workman did not take part on the ground that he was in jail custody, yet the management has recorded statement of H. R. Saha in the domestic enquiry. One Ram Naresh Sharma has also given his statement who have not been cross-examined as the concerned workman did not take part in the domestic enquiry on the ground that he was in jail custody. In my opinion, although the lawyer of the concerned workman has conceded the fairness of all the three domestic enquiry and this

Tribunal has on that basis held that the domestic enquiries were fair and proper because the concerned workman was in jail custody at the time when second enquiry was held he was unable to take part and therefore, in my opinion, the punishment awarded by the management on the basis of such enquiry does not appear to be justified. Therefore I find that so far chargesheet dated 29-1-88 is concerned the enquiry has been conducted in absence of the concerned workman when he was in jail custody, therefore on that basis the punishment of stoppage of two increments appear to be unjustified.

8. So far the chargesheet dated 1-2-88 is concerned this time the concerned workman has appeared in the domestic enquiry and has also adduced his evidence in his defence. In the chargesheet dated 1-2-88 there are three charges : the first is that he alongwith some other persons wanted to stop the jeep of C. D. Singh, Dy. CME, Kedla Opencast Project, second charge is that he alongwith others chased his jeep and went upto the office of the colliery where C. D. Singh, Dy. CME has confined himself and at that time he was abused and some big stone was thrown to break upon the door with mention to assault Sri Singh. The third charge was that the concerned workman took out a revolver and put on the chest of A. K. Singh, Security Guard and S. K. Pandey, Security Sub-Inspector and threatened them to kill them by firing shot. But the third charge of taking out revolver and putting on the chest of A. K. Singh and S.K. Pandey has not been supported by A. K. Singh and S. K. Pandey. S. K. Pandey, Security Sub-Inspector has clearly stated that the concerned workman did not threaten either him or his colleague. Abhoy Kumar Singh, Security Guard has said that an unknown person was holding a pistol. He has not said that the concerned workman took out revolver, pointed the same at the chest of either S. K. Pandey, Security Sub-Inspector or this witness, A. K. Singh. Therefore, the allegation of taking out revolver and pointing out the same in the chest of S. K. Pandey and A. K. Singh is totally incorrect in the F.I.R. which was lodged with the police. Therefore, incorrect allegation of pointing a revolver was levelled against this concerned workman. The management's witnesses, S. K. Pandey, A. K. Singh, Guptaeswar Singh have all supported the other two charges. The concerned workman has examined eight defence witnesses. The evidence of those witnesses does not disprove the charges levelled against him. However, it is clear that the concerned workman was having trade union activities and he was ventilating the grievances of the workmen and was putting forward demands on their behalf and he was over zealous to put forward the problems of his fellow workmen and for that he was a bit rude. Therefore, I find that the management has been able to establish two of the charges levelled in chargesheet dated 1-2-88. However, they have failed to establish the third charge which was a serious charge of taking out a revolver and to intimidate to the security personnels. Therefore, I find that the finding of the Enquiry Officer regarding first two charges is absolutely correct.

9. Since we have come to a finding that the concerned workman has first of all misbehaved with the General Manager on 4-1-88. Thereafter, he was chargesheeted for misbehaving with the Supdt. of

Mines and Project Officer and lastly he was charge-sheeted for trying to stop the jeep of Dy. CME in order to assault him because a day prior to that occurrence some dispute had occurred between Dy. CME and the concerned workman. But, in my opinion, the capital punishment of dismissal appears to be a bit excess punishment. The concerned workman has suffered for last 12 years and has forced the ordeal of remaining without employment and also in defending a criminal case in which he has been acquitted, the reinstatement of the concerned workman without back wages and consequential benefits will be sufficient punishment; alongwith an undertaking by the concerned workman to properly behave with the senior officer and not to indulge in any activity subversive of maintenance discipline and decorum in future. Therefore, in my opinion, in place of all the punishments including the punishment of dismissal the reinstatement of the concerned workman without back wages and other consequential benefits on his giving an undertaking to properly behave with the senior officer and will not indulge in any subversive activities which is against the maintenance of discipline and decorum, then it will be sufficient punishment to the concerned workman.

10. Therefore, I render—

#### AWARD

That the action of the management in reverting the concerned workman by reduction of rank, stoppage of two increments and dismissal is an excessive punishment. The ends of justice will meet if the concerned workman is reinstated into service without back wages and consequential benefits on his giving an undertaking that he will behave properly with his superiors and will never indulge in any activity subversive to maintain discipline and decorum. The management is directed to reinstate the concerned workman as mentioned above on his giving undertaking within 30 days from the date of publication of the award.

SARJU PRASAD, Presiding Officer

नई दिल्ली, 11 अप्रैल, 2001

का. आ. 840—केन्द्रीय सरकार संसुष्ट है कि लोकहित में ऐसा अपेक्षित है कि कोयला उद्योग में सेवाओं को जिसे औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की प्रथम अनुसूची की प्रविष्टि 4 के अन्तर्गत निविष्ट किया गया है, उक्त अधिनियम के प्रयोजनों के लिए लोक उपयोगी सेवाएं घोषित किया जाना चाहिए।

अतः अब, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खंड (ड़) के उपखंड (6) द्वारा प्रदत्त प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार उक्त उद्योग को उक्त अधिनियम के प्रयोजनों के लिए तत्काल प्रभाव से छः मास की कालावधि के लिए लोक उपयोगी सेवा घोषित करती है।

[स. एम-11017/2/97-ओ. सं. (नी. वि.)]

एच. सी. गुप्ता, गवर सचिव

New Delhi, the 11th April, 2001

S.O. 840.—Whereas the Central Government satisfied that the public interest requires that the services in the Coal Industry which is covered by item 4 of the First Schedule to the Industrial Disputes Act, 1947 (14 of 1947), should be declared to be a public utility service for the purposes of the said Act;

Now, therefore, in exercise of the powers conferred by sub-clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947, the Central Government hereby declares with immediate effect that the said industry to be a public utility service for the purposes of the said Act for a period of six months.

[No. S-11017/2/97-IR(PL)]

H. C. GUPTA, Under Secy.

नई दिल्ली, 28 मार्च, 2001

का.आ. 841.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कर्नूर वैया बैंक लिमिटेड के प्रबंधन के सबूत नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चेन्नई के पचाड को प्रकाशित करती है, जो केन्द्रीय सरकार को 27-3-2001 का प्राप्त हुआ था।

[स. एल-12012/313/2000-आईआर(बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 28th March, 2001

S.O. 841.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal/Labour Court, Chennai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Karur Vysya Bank Ltd. and their workman, which was received by the Central Government on 27-3-2001.

[No. I-12012/313/2000-IR(B-I)]

AJAY KUMAR, Desk Officer

#### ANNEXURE

BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL-CUM-LABOUR  
COURT, CHENNAI

Wednesday, the 14th March, 2001

PRESENT :

K. Karthikeyan, Presiding Officer.

Industrial Dispute No. 78/2000

BETWEEN

The General Secretary,

Karur Vysya Bank Employees Union,  
Bangalore.

.. Claimant/I Party.

AND

The Chairman,  
Karur Vysya Bank Ltd.,  
Karur.

.. Management/II Party.

#### APPEARANCES :

For the Claimant : M/s. D. Hariparanthaman V.  
Ajay Khose, Advocates.

For the Management : M/s. T. S. Gopalan and  
Co., Advocates.

#### REFERENCE :

Order No. L-12012/313/2000/IR(B-1) dated  
29-9-2000 Government of India, Ministry of  
Labour, New Delhi.

This dispute on coming up before me for final hearing on this day, the 1st March, 2001, upon perusing the reference, Claim Statement, Counter Statement and other material papers on record, in the absence of oral evidence on either side, documentary evidence let in by the consent of either side, and upon hearing the arguments of the counsel for the Claimant Sri D. Hariparanthaman and the counsel for the Management Sri T. S. Gopalan and this dispute having stood over till this date for consideration, this Tribunal passed the following:—

#### AWARD

This reference by the Central Government in-exercise of the powers conferred by Clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947, in respect of dispute between Shri N. Palanisamy, Workman and the Chairman, Karur Vysya Bank Ltd., Karur, Management, mentioned as Schedule appended to the order of reference.

The Schedule reads as follows:—

“Whether the dismissal of Shri N. Palanisamy, sub-staff of Pudukotram Branch by the Management of Karur Vysya Bank is legal and justified? If not, to what relief is the workman entitled to?”

On receipt of this reference, this industrial dispute has been taken on file of this Tribunal on 5-10-2000 as Industrial Dispute No. 78/2000. Both the parties to the dispute on receiving notices sent by this Court by Registered Post appeared before this Tribunal with their respective counsel and subsequently filed the Claim Statement and the Counter Statement

2. The averments of the Claimant in the Claim Statement are briefly as follows:—

The I Party/Claimant, the General Secretary, Karur Vysya Bank Employees Union (hereinafter referred to as Petitioner) has raised this industrial dispute espousing the cause of the workman Sri N. Palanisamy. It is alleged in the Claim Statement that the said workman Sri N. Palanisamy, concerned in this dispute was employed by the Management/II Party, Karur Vysya Bank Ltd. (hereinafter referred to as Respondent) as a Security on and from 1994. The said workman was a member of the Petitioner Union. The said workman was kept in service without issuing any appointment order by the Respondent. Though he was doing regular

and permanent work for years together, he has not regularised and not paid proper wages, in spite of several demands by the Petitioner Union. Therefore, the Petitioner Union raised the industrial dispute regarding regularisation of the concerned workman and three other workmen/members. After a prolonged consideration, the Petitioner Union and the Respondent/Management had entered into a settlement dated 28th November, 1997 under Section 12(3) of the Industrial Disputes Act. By that Settlement the services of the concerned workman was regularised from 1-2-1994 and it was agreed to appoint the concerned workman as sub-staff with effect from 1-12-97 on regular basis with a basic of Rs. 1,000. As per the Settlement, if no implementation report was submitted before 15th December, 1997, the Settlement would come into force with effect from 15-12-1997. The Respondent issued a memo dated 18-12-98 to the concerned workman alleging that the transfer certificate produced by him along with his application dated 13-12-97 was not a genuine one and also the particulars mentioned in the said application regarding his studies and age were not genuine. It is further stated that he was offered an appointment as a sub-staff only based on the information furnished by him in the application and based on the transfer certificate produced along with the application and the workman was called upon to submit his explanation within three days. By a letter dated 23-12-98, the concerned workman requested the Respondent/Management to grant him thirty days time to submit his explanation. But the Respondent granted time only upto 5-1-99 by its letter dated 30-12-98. The concerned workman prayed for ten days time by his letter dated 4-1-99 to submit his explanation. However, without giving any reply and without passing any order on his request and the show cause notice dated 18-12-98 was pending consideration, the Respondent once again issued a charge sheet dated 2-2-99 on the same issue, which is a clear case of mala-fide. The concerned workman submitted his explanation in his letter dated 6-2-99, but without considering his application, he was suspended from service by an order dated 3-3-99, with immediate effect. Mr. R. V. Gopalakrishnan and Mr. N. Chandrasekaran were appointed as Enquiry Officer and Presenting Officer respectively by orders of the Respondent. By a letter dated 23-3-99, the Petitioner union categorically informed that the issuance of charge sheet and suspension and the ordering of enquiry against the concerned workman was without jurisdiction and contrary to the terms of Section 12(3) of Settlement dated 28-11-97 and requested the Respondent to revoke the suspension order and to drop the enquiry proceedings. But without replying to this letter, the Respondent proceeded with the enquiry. In the enquiry, the objections raised by the defence representative was not properly considered by the Enquiry Officer and the Enquiry Officer had readily accepted the contention of the Presenting Officer, revealing his biased attitude. In the enquiry, the Management has examined one witness and marked 11 exhibits. On the side of the defence, the settlement dated 25-11-97 was marked as Ex. D1 and written arguments were filed by both sides. The findings of the Enquiry Officer dated 9-6-99 was communicated to the workman by the Management by letter dated 9-6-99. Without properly analysing the charge and the evidence and without application, the Enquiry Officer has held that the charge was proved. The defence representative submitted his comments over the findings of the

Enquiry Officer on behalf of the concerned workman by his letter dated 18-6-99. Without properly appreciating the comments submitted over the findings of the Enquiry Officer on behalf of the workman and by failing to see the misconduct under clause 19(5)(m) was not at all attracted and made out in the case, the Disciplinary Authority issued a notice dated 12-7-99 proposing to dismiss the concerned workman Sri N. Palanisamy from service. By letter dated 17-8-99, personal hearing on the proposed punishment was postponed to 21-8-99. The concerned workman submitted his explanation over the findings of the Disciplinary Authority proposing to dismiss him from service during the personal hearing on 21-8-99. Though the Disciplinary Authority held the point that based on this document, the charge sheeted employee was not employed in the bank and that it is in pursuance of Settlement with the Union is not denied, the Disciplinary Authority dismissed the concerned workman by an order dated 14-9-99 and treated the period of suspension as suspension only. The Disciplinary Authority declined to modify the punishment on the ground that the workman was under questionable integrity, which was not at all the charge and for which the workman was not given opportunity at all. Further, the Disciplinary Authority failed to take into account the long unblemished past record of the workman and other extenuating circumstances in his favour. The concerned workman, thereafter, preferred an appeal before the Appellate Authority against the order of Disciplinary Authority stating that disciplinary action was against the terms of the Settlement and prayed to revoke the dismissal order and also prayed for leniency explaining his family circumstances. However, without considering the contentions put forth by the workman properly, the Appellate Authority rejected the appeal and simply confirmed the order of the disciplinary authority by an order dated 31-1-99. By a letter dated 28-10-99, the Workman requested the Petitioner Union to pursue the matter to get him remedy. The Petitioner Union raised industrial dispute against the dismissal of Sri N. Palanisamy before the Regional Labour Commissioner, Chennai by an application dated 4-1-2000. The Respondent/Management filed remarks on the statement filed by the Petitioner Union before the Regional Labour Commissioner. As the Regional Labour Commissioner could not bring out any mediation, he has submitted the failure report to the Government, which in turn, has referred the matter for adjudication by this Hon'ble Tribunal. The action of the Respondent/Management in dismissing Sri N. Palanisamy, sub-staff, from service is illegal, arbitrary and unjust. When the show cause notice dated 18-12-98 was pending, even without withdrawing the same, the issuance of charge sheet dated 2-2-97 by the Respondent Management on the same facts is mala-fide and without jurisdiction. In the show cause notice dated 18-12-98, no allegation against the workman was made to consider the misconduct. Hence, the Respondent/Management was estopped from issuing a charge sheet once again making the same allegations and terming it as a misconduct. In spite of the objections by the defence representative, xerox copies of documents were marked on the side of the Management. In the enquiry, the letter and the Transfer Certificate sent by the Headmaster were marked, without examining the author of the said documents. Thus, the workman was denied opportunity to cross-examine the

author of those documents. Under such circumstances, the Enquiry Officer was not correct in allowing those documents to be marked. The reliance made by the Enquiry Officer on those documents without examining the authors of those documents was perverse. The Enquiry Officer had relied on the documents which were not marked in the enquiry for his findings. Therefore, the findings of the Enquiry Officer is perverse and biased. The Enquiry Officer, the Disciplinary Authority and the Appellate Authority failed to see that allegations made against the workman would not attract Clause 19(5)(m) of the Bipartite Settlement and that the misconduct under clause 19(5)(m) by the workman was not made out by legal and acceptable evidence. The Enquiry Officer failed to take into account the relevant admissions made by MW1 in favour of the workman. The entire disciplinary action was without power and jurisdiction, as it was violative of Section 12(3) of Settlement dated 28-11-97. In the Settlement dated 28-11-97, the concerned workman was regularised as a sub-staff without any reference to any educational qualification or age with effect from 1-12-94. The Settlement came into force with effect from 15-12-97. Therefore, the services of the workman was regularised in terms of the Settlement. There was no condition imposed for the regularisation of Sri N. Palanisamy as a sub-staff regarding age or qualification. Therefore, the Respondent/Management cannot call for any documents or particulars regarding age or educational qualification. Further no educational qualification was necessary for the continuance of the service of Sri N. Palanisamy. Therefore, this will not amount to making of false statement in any documents pertaining to or in connection with the employment in the bank. When the document and particulars said to have been furnished by the workman is not pertaining to his or in connection with his employment, the Enquiry Officer, Disciplinary Authority and the Appellate Authority committed a grave error in holding that the charge under clause 19(5)(m) was proved, and thus they failed to apply their mind. The fact that the workman concerned was 44 years at the time of the disciplinary proceedings is not disputed. This correctly coincide with the date of birth mentioned in the application. If at all the Respondent/Management had any doubt regarding the age of the workman, they ought to have sent him to medical board to assess his age. Therefore, there is no reason or justification of the Respondent Management to dismiss the workman from service. In any event, even assuming the charge is proved under clause 19(5)(m), the extreme penalty dismissal amounts to legal victimization as it is totally excessive and shockingly disproportionate, particularly when 14 years of long past record of the workman was unblemished. He was belonging to the last grade/sub-staff category. He was not holding any post of trust. He is now aged 45 years. He has a big family to support except his employment there is no other source of income to sustain his family. He cannot find any alternate employment at this age. Therefore the Petitioner Union prays that Hon'ble Tribunal may be pleased to exercise the power under Section 11A of the Industrial Dispute Act and to interfere with the punishment and reinstate the workman in service and direct the Respondent Management to reinstate the concerned staff with continuity of service, back wages and other attendant benefits.

3. The averments in the Counter Statement of the Respondent are briefly as follows :—

The Respondent bank retained the services of Sri Muthuswamy, Rasappan and the concerned workman to act as caretakers and stay in the Head Office building during night time. Similarly, one Mr. Annamalai was retained for the bank's guest house in Chennai. The Petitioner Union made a demand that all the above four caretakers should be regularised and absorbed in the services of the bank. In pursuance to this conciliation settlement was made on 28-11-97 under section 12(3) of the Industrial Disputes Act and thereby the Respondent/Management agreed to appoint the concerned workman and the other three persons as sub-staff with effect from 1-12-97 on regular basis. It is also agreed that the concerned workman and the other three persons will submit applications in the prescribed pro forma seeking employment on the basis of which the Management will issue letters of appointment. On 13-12-97, the concerned workman submitted the application in the pro forma in which he declared that he has studied in the Government High School, Kolakkudi, Musiri Taluk, Trichy District and in support of his claim, he produced the original Transfer Certificate purported to have been issued on 12-12-97. He also produced photostat copy of the said Transfer Certificate. The Branch Manager of Karur Main Branch verified the original Transfer Certificate retained the photostat copy and returned the original. According to the Transfer Certificate produced by the concerned workman, his date of birth is 2-10-1956 in his pro forma application. He claimed his place of domicile as Uppidamangalam. Based on the pro forma application submitted by the concerned workman on 30-12-97, he was appointed as a probationer in the sub-staff cadre for a period of six months from 1-12-97. Later on, a doubt arose about the genuineness of the school certificate produced by the concerned workman. On 4-12-98, Sri S. Balasubramanian, Manager, Industrial Relations, of the Respondent bank called on the Headmaster, Govt. High School, Kolakkudi and gave a letter seeking confirmation whether the Transfer Certificate produced by that concerned workman was issued by the School. After verifying the records, the Headmaster of the school informed him that the transfer certificate No. 168/97 with admission No. 3342 purported to have been issued by the School and produced by the concerned workman related to one Mr. Selvarai and the certificate was issued on 14-7-97. Thus, it became evident that the school transfer certificate produced by the concerned workman was not genuine and he should give his explanation for the same. He did not offer any explanation. On 2-2-99, a chargesheet was issued to the concerned workman charging him with the misconduct of 'knowingly making a false statement in any document pertaining to or in connection with the employment in the bank'. On 6-2-99, the concerned workman gave a reply admitting the charge that he has produced the certificate which was not a genuine one and that he should be excused for the error committed by him. As his explanation was not satisfactory, he was asked to appear for an enquiry. The enquiry was held on 7-4-99 and 8-4-99. In the enquiry, the concerned workman was

defended by Mr. S. Vyasraj, an office bearer of the Petitioner Union. In the enquiry, Sri S. Balasubramanian, Manager, Industrial Relations was examined. On 9-6-99, the Enquiry Officer gave his report holding that the charge against the concerned workman was duly proved and that he was guilty of the misconduct. A copy of the report of the Enquiry Officer was furnished to the concerned workman and he was asked to make his comments. On 18-6-99 he gave his reply. On 12-7-99, a second show-cause notice proposing punishment of dismissal was issued to the concerned workman. He was also asked to appear for a personal hearing on 24-7-99, Personal hearing was ultimately held on 21-8-99. During the personal hearing, the concerned workman confessed his guilt and pleaded for lenience. After considering his representation dated 14-9-99, the Disciplinary Authority passed orders dismissing the concerned workman. The appeal of the concerned workman against the order of the Disciplinary Authority was also dismissed. The dismissal of the concerned workman was for serious act of misconduct and the said dismissal is perfectly valid in law and justified. Hence, the issue referred for adjudication should be answered against the Petitioner. The appointment of the concerned workman was not automatic or got regularised by the Settlement. It is not correct to say that the Respondent bank has no jurisdiction to initiate action against the concerned workman for having produced false document. The conduct proved against the concerned workman attracted Clause 19.5 (m) of the Bipartite Settlement. What the Disciplinary Authority held was that the conduct proved against the concerned workman reflected on his integrity and honesty and therefore, misconduct cannot be viewed leniently. The memo dated 18-12-98 was only to seek clarification and it was not a chargesheet. Therefore, there was no need to mention any misconduct. Since the concerned workman did not give a reply to the letter dated 13-5-98, after waiting for more than a month, a chargesheet was issued on 2-2-99. In the enquiry the concerned workman was assisted by an office bearer of the Petitioner Union and no objection was raised for making of any other documents. In fact, only after verifying the original of the documents, photostat copies were marked. The original transfer certificate was returned to the concerned workman. When the concerned workman had admitted that he had produced false document, it mattered whether the documents were marked through the authority or the person who received the documents. It is not necessary to examine the Headmaster, Mr. S. Balasubramanian, Manager, Industrial Relations who had called on the Headmaster of the school and collected the information was competent to give evidence and his evidence has been accepted by the Enquiry Officer. So far as the concerned Workman has produced false documents, he has forfeited his right to continue in employment and he has rightly dismissed from service and his misconduct of the concerned workman was grave in nature and warranted the punishment of dismissal. It cannot be said to be harsh and excessive and there is no scope to interfere with the punishment. It is, therefore, prayed that this Hon'ble Court may be pleased to make an award upholding the dismissal of the concerned workman.



4. When the matter was taken up for enquiry, the counsel on either side gave consent for marking the xerox copies of the documents produced on the side of the Management, except one document. Accordingly, 30 documents have been marked as Ex. M1 to M30 by consent. The arguments advanced by the learned counsel on either side were heard.

5. The point for my consideration is 'whether the dismissal of Sri N. Palanisamy, sub-staff of Pudukhatram Branch by the Management of Karur Vysya Bank is legal and justified? If not, to what relief is the workman entitled to?'

#### Point

This industrial dispute referred to in the Schedule of reference mentioned in the order dated 29-9-2000 of Govt. of India, Ministry of Labour, New Delhi has been raised by the Petitioner Union to espouse the cause of aggrieved workman Sri N. Palanisamy. It is admitted that the concerned workman Sri N. Palanisamy originally employed as a security staff in the year 1994 by the Respondent/Management was subsequently on the basis of Petitioner's union demand, taken as sub-staff with the other three similar security staff with effect from 1-12-97, in pursuance of conciliation and Settlement dated 28-11-97. It was agreed that the concerned workman and other three persons to submit applications in the prescribed pro forma seeking employment on the basis of which the Management will issue letters of appointment. In the Claim Statement under ground (i) the Petitioner has stated that the II Party cannot call for any document or particulars regarding age or educational qualification. Ex. M1 is a Memorandum of Settlement under section 12(3) read with Section 18(3) of Industrial Disputes Act between the Respondent/Management and the Petitioner Union on regularisation of four casual employees. One among the four employees mentioned in that statement is the concerned workman Sri N. Palanisamy. In that terms of Settlement Clause No. 2 reads as follows :—

"That both the Management and Union agreed that the four workmen in question will submit applications in the prescribed pro forma seeking employment and on the basis of which the Management will issue letters of appointment."

So on the basis of this particular clause in terms of the Settlement and Ex. M1, it is evidently clear that the allegations in the Claim Statement of the Petitioner under ground (i) that II Party cannot call for any document or particulars regarding age or educational qualification is incorrect.

6. The learned counsel for the Petitioner while advancing his argument, has stated that this is a case of dismissal of the concerned employee from service by the Respondent/Management pursuant to misconduct and he is not attacking the enquiry on the procedural aspect and he is questioning only the punishment imposed by the Disciplinary Authority, when the said Disciplinary Authority has disagreed with the findings of the Enquiry Officer in his report. The Enquiry Officer in his report Ex.

M20 has given a finding that the chargesheeted employee has to submit the application as prescribed by the bank for seeking employment and on the basis of which the Management will issue a letter of appointment. But the Appellate Authority has stated in his order Ex. M23 that the employee should be given employment as per the understanding reached with the Union and accordingly he was also absorbed in the permanent services of the bank and subsequently he was advised to submit necessary application for employment as per office rules for office records. So the submission of the application of the concerned employee is not a pre-requisite for regularising his service by the Respondent Management as per the Settlement entered into under Ex. M1. So, that being the case, no educational qualification or no certificate is required to be filed by the concerned employee and the application was not furnished for employment and the concerned workman was not seeking any employment by giving that application. So the false information furnished by the concerned employee cannot form large to consider it a grave misconduct to warrant the punishment of dismissal from service. He would further, argue that he admits that Ex. M3 is the xerox copy of the transfer certificate. The concerned employee has enclosed along with his application Ex. M2 and it is not a genuine one. As it is stated by the Disciplinary Authority in his communication dated 12-7-99 Ex. M23, the concerned employee is not derived employment through the application. So under such circumstances, as it has been pleaded by the concerned workman himself in his representation to the Management the case of the concerned employee may be dealt with leniently by showing mercy, taking into consideration of his best services, age and family environment.

The Hon'ble Tribunal by exercising its powers under section 11A of the Industrial Disputes Act, has to interfere with the punishment of dismissal from service imposed by the Management against the concerned workman and impose any other lesser punishment out of the various lesser punishments and an award may be passed setting aside the order of dismissal from service passed by the Respondent/Management and by directing them to impose a lesser punishment, after reinstating the concerned workman in service. The learned counsel for the Petitioner has relied upon the judgement rendered by the Supreme Court, reported as 2000 (II) LLJ 1599 Assistant General Manager State Bank of India and Thomas Jose & another and has stated that in the said case, the Supreme Court has modified the order of dismissal into reinstatement in service without back wages and without increments for the period of ten years when it happens to be a case of misappropriation of funds in Savings Bank account of the customer, by an employee of the bank. In such situation, the misconduct of the bank employee has been dealt with leniently by the Supreme Court. Thus the Hon'ble Tribunal can exercise its jurisdiction under section 11A of the Industrial Disputes Act and modify the order of punishment imposed on the concerned employee by the Respondent/Management and pass an award directing the Respondent/Management to reinstate the concerned employee in service with a lesser punishment.



5. The learned counsel for the Respondent would argue that Ex. M3, the Transfer Certificate produced by the concerned employee along with his application Ex. M2 is admittedly a false certificate. It is not a false document but a forged document. This has been proved by Ex. M7 issued by the Headmaster of Government High School, Kolakkudi, with an enclosure of the original Transfer Certificate bearing the same serial number 168/97-98. Nobody will tender a forged document without any purpose or without having any benefit out of the same for himself. Here, in this Transfer Certificate the age, educational qualification and other particulars have been given. When a doubt arose with regard to this Transfer Certificate in the mind of the Management, they have verified the same by an enquiry through one Mr. Balasubramanian, Manager, Industrial Relations, with the Headmaster of the Government Higher Secondary School, Kolakkudi and got a letter from him that the Transfer Certificate No. 168/97 with admission No. 3342 purported to have been issued by the School and produced by the concerned workman, related to one Mr. Selvaraj, which was issued on 14-7-97. By doing so, the concerned workman has used the fabricated document, knowing fully well that he is using a false document as a genuine one and thereby made the Management to believe it as a genuine document to act upon with regard to his employment. It amounts to a criminal offence under Indian Penal Code Section 471 (IPC). When it was found out, the concerned Workman himself has admitted in his letter dated 6-2-99 to the Chief Manager, PAD, Karur Vysya Bank Ltd. It is an enclosure to Ex. M13, forwarding letter from the Manager of Pudukhatram branch of Karur Vysya Bank Ltd. So from this and also from the admission made by the concerned employee before the Enquiry Officer it is evident that he has committed such misconduct and it clearly establish that the concerned employee has done so, knowing fully well that it is a fraudulent act, of production of fabricated document and used that forged document as a genuine for the Management to act upon in respect of his employment. If really the concerned employee has no advantage to derive from one such document, there is no need for him to produce that fabricated document and thereby committed this fraudulent act. In Ex. M12 character sheet, it has been clearly stated that if the misconduct mentioned therein is proved the concerned workman is liable to be imposed with any of the punishments indicated in para 19.6 of the Bipartite Settlement as amended by paragraph 21.4 of the Settlement dated 14-2-95. So under such circumstances, considering all these aspects, the Management has taken a proper action by imposing the punishment of dismissal from service, after having taken steps against the concerned workman by conducting a domestic enquiry as per the procedure and law. So, this Hon'ble Tribunal has no scope to interfere with the punishment imposed by the Respondent Management against the concerned workman by exercising its discretion under section 11A of the Industrial Disputes Act. In addition to this argument, the learned counsel for the Respondent has relied upon the Supreme Court judgement reported as 1994 (2) LIT 888 between the KERALA SOLVENT EXTRACTATIONS LTD and A UNNIKRISSUNAN & ANR and has stated that "an employee obtaining an employment by suppressing the truth was liable to be terminated from service and misplaced sympathy.

generosity and private benevolence have been deprecated by the Supreme Court. It is held in that case by the Supreme Court that the reliefs granted by the Courts must be seen to be logical and tenable within the framework of law and should not incur and justify the criticism that the jurisdiction of the Courts tends to degenerate into misplaced sympathy, generosity and private benevolence. It is essential to maintain the integrity of legal reasoning and legitimacy of its conclusions. Expressive judicial mood of mistaken and misplaced compassion at the expense of legitimacy of the process will eventually lead to mutually irreconcilable situations and denude the judicial process of its cogency authority, predictability and respectability. In that case, the workman suppressing his educational qualification had obtained employment with the Management as a badli workman. On finding it out, the Management terminated the services of the workman for fraudulent misrepresentation. It is a case where the qualification for that post should not be more than VIII Standard. The concerned workman produced a certificate issued by the School authorities to the effect that he has passed VII Standard on May 15, 1974 to the purpose to show that his qualification have not more than VIII Standard. On receiving certain complaints that the workman secured employment and suppressed information by false representation, the Management issued show-cause notice to the workman asking him as to why action should not be taken against him under the Standing orders. In reply to that the Workman has admitted that he has completed X Standard and pleaded sympathy, for that Management have terminated the services of the employee for fraudulent misrepresentation. The decision taken by the Labour Court that the conduct of the Workman did not amount to false representation, was subsequently upheld by the High Court for different reason. The Supreme Court, on appeal by the Management had deprecated the misplaced sympathy and generosity.

6. It is seen from the available material that the above mentioned decision of the Supreme Court is squarely applicable to the facts of this case. This is also a case where the workman concerned has produced a false certificate and thereby made a fraudulent misrepresentation of the fact before the Respondent/Management in connection with his employment, only with a view to avail some benefits. The materials available in this case clearly prove that the concerned Workman has committed a grave misconduct which amounts to a criminal act under Section 471 of IPC. As it has been stated by the learned counsel for Respondent/Management that fraudulent act of concerned workman has been proved clearly before the Enquiry Officer with a documentary evidence and the same has been admitted by the concerned workman himself. It is held in a case reported as 1999 (2) LIT 194 MANAGEMENT OF CATHOLIC SYRIAN BANK LTD and INDUSTRIAL TRIBUNAL MADRAS & ANOTHER by the Madras High Court that "finding that employee committed fraud on customer was established in domestic enquiry the Industrial Tribunal as a judicial forum can record its conclusions based on findings and available relevant materials. Continuing in employment a person who have committed fraud would be a judicial to the interest of the bank. It is further held in that case that an employee cannot claim right to commit fraud during the course of employment. The employee should maintain such ethical standards embodied in rules and regulations

Ethical standards cannot be abandoned that justice should be rendered with mercy. Employee should maintain minimum standard of integrity. An award of reinstatement and back wages to Workman did not maintain minimum standard of integrity would amount to rewarding fraudulent and dishonest conduct and would be walking at integrity and honesty of majority of Workmen. Order of dismissal cannot be invalidated on the ground of sympathy where such sympathy would be misplaced because of proved grave misconduct or fraud committed by the employee." In another case decided by the Supreme Court reported as 1998(3) LLN289 between UNION BANK OF INDIA and VISHWA MOHAN, it is held that "in banking business absolute devotion, diligence and integrity need to be preserved by every bank employee." So all these decisions go to show that in a case of fraud committed by a bank employee in fabricating false documents and knowing fully well that it is a false document making use of the same as a genuine document to derive some benefit and thereby committing a fraud by making the other person to rely upon it as a genuine document can be termed as a grave misconduct on the part of the employee. There is sufficient material available in this case to come to a conclusion that it is a proved misconduct which is grave in nature warranting dismissal from service. As it is held by Madras High Court in the above cited case, discretionary power does not mean licence to direct reinstatement even where it is not warranted and to set aside the order of dismissal, when records do not want such setting aside the order of dismissal and the Industrial Tribunal cannot interfere with quantum of punishment, if proved misconduct is grave in nature warranting dismissal from service and that discretionary powers to interfere with the quantum of punishment can be exercised only when it is established that proved charges and penalty imposed are not proportionate to each other, after considering all the aspects. Failure to consider the past conduct by itself is not sufficient to hold the order of dismissal as not warranted where proved misconduct is grave and that order of dismissal cannot be interfered on the ground of sympathy where such sympathy would be misplaced because of proved misconduct committed by the employee. In view of the material available in this case and also on the basis of the above cited decisions of High Court and Supreme Court, this Tribunal cannot exercise its discretionary powers under section 11A of the Industrial Disputes Act, to interfere with the quantum of punishment imposed by the Respondent/Management against the concerned employee. Under such circumstances it can be easily concluded that dismissal of Sri N. Palanisamy, sub-staff of Pudukhattram Branch by the Management of Karur Vysva Bank is legal and justified and the concerned Workman is not entitled to any relief. Thus, I answer the point accordingly.

7. In the result, an award is passed holding that the concerned workman Sri N. Palanisamy, whose cause has been espoused by the Petitioner Union cannot be granted any relief, as prayed for in the Claim Petition. No Cost.

(Dictated to the Stenographer and transcribed & typed by him and corrected and pronounced by me in the open court on this day the 19th March, 2001).

K. KARTHIKEYAN, Presiding Officer

Witnesses Examined :

On either side : NONE

Documents Marked,

For Claimant/I Party : NIL.

For Management/II Party :

Ex. M1 28-11-97 : Xerox copy of Memorandum Settlement under Section 12(3) r.w.s. 18(3) of I.D. Act between the management and petitioner union.

Ex. M2 13-12-97 : Xerox copy of application submitted by N. Palanisamy in the prescribed proforma

Ex. M3 12-12-97 : Copy of transfer certificate bearing S. No. 168/97-98 admission No. 3342 purported to have been issued by Govt. High School, Kolakkudi.

Ex. M4 22-12-97 : Xerox copy of letter from Manager, Karur Main Branch to Head Office dated 22-12-97 forwarding application of petitioner.

Ex. M5 30-12-97 : Xerox copy of order of appointment bearing reference PAD/PP/1152/97 dt. 30-12-97 issued to Mr. N. Palanisamy.

Ex. M6 4-12-98 : Copy of letter No. PAD/PP/98 issued by Manager, IR of the Bank to Head Master, Govt. High School, Kolakkudi seeking clarification.

Ex. M7 4-12-98 : Xerox copy of clarification letter given by Head Master, Govt. High School, Kolakkudi along with copy of genuine transfer certificate.

Ex. M8 18-12-98 : Xerox copy of memo PAD/12/98 issued to N. Palanisamy.

Ex. M9 23-12-98 : Xerox copy of letter from Mr. N. Palanisamy seeking time for submission of reply to memo.

Ex. M10 30-12-98 : Xerox copy of letter from Chief Manager, PAD to N. Palanisamy permitting time upto 5-1-99 for submission of reply.

Ex. M11 4-1-99 : Xerox copy of letter from N. Palanisamy to Chief Manager, PAD requesting for 10 days further time for reply.

Ex. M12 2-2-99 : Xerox copy of Charge Sheet PAD/W-02/03/99 dt. 2-2-99 issued to N. Palanisamy.

Ex. M13 8-2-99 : Xerox copy of letter PAD/17/98-99 from Manager, Pudukhattram branch enclosing reply letter dated 6-2-99 from N. Palanisamy for the chargesheet.

Ex. M14 8-3-99 : Xerox copy of order PAD/DPI/106/99 initiating enquiry against Mr. N. Palanisamy on the above referred chargesheet.

Ex. M15 19-3-99 : Xerox copy of notice of enquiry by the Enquiry Officer for the enquiry on 30-3-99.

Ex. M16 31-3-99 : Xerox copy of notice of enquiry by the Enquiry Officer for the enquiry on 7-4-99.

- Ex. M17 07-4-99 : Xerox copy of proceedings of the enquiry held.
- Ex. M18 8-4-99 : Xerox copy of proceedings of the enquiry held.
- Ex. M19 03-05-99 : Xerox copy of letter from Enquiry Officer to Mr. N. Palanisamy advising him to submit written arguments.
- Ex. M20 09-06-99 : Xerox copy of report of the findings of Enquiry Officer.
- Ex. M21 09-06-99 : Xerox copy of letter from Disciplinary authority to Mr. N. Palanisamy enclosing report of findings and calling for his representation.
- Ex. M22 18-06-99 : Xerox copy of letter from Defence Council to the Disciplinary authority enclosing representation on the report of the findings.
- Ex. M23 12-07-99 : Xerox copy of proposed punishment show cause notice PAD/291/99 issued to N. Palanisamy by the Disciplinary Authority.
- Ex. M24 23-07-99 : Xerox copy of letter from Disciplinary Authority to N. Palanisamy postponing the proposed punishment hearing from 24-7-99 to 31-7-99 on his request.
- Ex. M25 27-07-99 : Letter from Disciplinary Authority to Mr. N. Palanisamy postponing the proposed punishment hearing from 31-7-99 to 9-8-99 on his request.
- Ex. M26 17-08-99 : Xerox copy of letter from Disciplinary Authority to Mr. N. Palanisamy confirming the postponement of proposed punishment hearing from 9-8-99 to 21-8-99.
- Ex. M27 21-08-99 : Xerox copy of proceedings of the proposed punishment hearing before the Disciplinary Authority.
- Ex. M28 14-9-99 : Xerox copy of final order issued by Disciplinary Authority dismissing Mr. N. Palanisamy from the services of the bank.
- Ex. M29 — : Xerox copy of appeal filed by N. Palanisamy to Appellate Authority.
- Ex. M30 31-12-99 : Xerox copy of letter PAD/932/99 of Appellate Authority enclosing his order on appeal.

Sd.:-

PRESIDING OFFICER

नई दिल्ली, 29 मार्च, 2001

का.प्र. 842.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केंद्रीय सरकार स्टेट बैंक आफ पटियाला के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केंद्रीय सरकार औद्योगिक अधिकरण नई दिल्ली के पंचाट को प्रकाशित करती है, जो केंद्रीय सरकार को 28-3-2001 को प्राप्त हुआ था।

[सं. एस-12012/294/99-आईआर(बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 29th March, 2001

S.O. 842.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, New Delhi as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of Patiala and their workman, which was received by the Central Government on 28-3-2001.

[No. L-12012/294/99-IR(B-I)]

AJAY KUMAR, Desk Officer

## ANNEXURE

BEFORE SHRI K. S. SRIVASTAV, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, NEW DELHI

I.D. No. 62/2000

In the matter of dispute between :  
Shri Ashwani Kumar Sharma,  
General Secretary,  
All India State Bank of Patiala Staff  
Federation, Solan.

Versus

The General Manager (Operation),  
State Bank of Patiala H.O., The Mall, Patiala,  
Patiala-147001.

## APPEARANCES :

Workman in person.

## AWARD

The Central Government in the Ministry of Labour has sent this reference under Section 10(1)(d) and Section 10-2(A) of the I.D. Act, 1947 vide its order No. L-12012/294/99/IR(B-I) dated 4-1-2000 for adjudication of the dispute between the parties on the following terms :

"Whether the action of the management of State Bank of Patiala through its Regional Manager III, Chandigarh and transferring Shri Ashwani Kumar Sharma, General Secretary, All India State Bank of Patiala Staff Federation, Solan is violative of clause No. 525 of the Shastri Award and various other orders of the management as projected in the dispute raised by All India State Bank of Patiala Staff Federation in the representation dated 2-1-99. If so what relief is the workman entitled to?"

2. The reference was at the first stage sent to the Central Government Industrial Tribunal, Chandigarh and Haryana and it was registered there on 19-1-2000 as I.D. No. 15/2000 but vide order dated 16-2-2000 of the Central Government exercising the power under Section 10(1) read with Section 33-D of the I.D. Act, 1947 transferred this reference to this Tribunal for further proceeding from the stage it was transferred.

3. It was then vide order dated 28-6-2000 registered as I.D. No. 62/2000 and notices to the parties were issued. The workman filed statement of claim. Along with the claim the workman has also filed an applica-

tion praying for the interim relief. The Management had then filed written statement and also reply against the workman's application for interim relief. Workman's application for interim relief was taken up for disposal first. Evidence on behalf of the parties recorded and the application was heard on merit.

4. The workman's application for interim relief was then rejected on merit vide detailed order passed on 14-12-2000. Thereafter the workman moved application dated 14-12-2000 for withdrawing his claim/dispute. Vide endorsement made on the application on 23-1-2001 the management has no objection for the withdrawal of the dispute by the workman.

5. In view of the matter and under the circumstances a No Dispute Award in the case is given.

February 27, 2001.

K. S. SRIVASTAV, Presiding Officer

नई दिल्ली, 30 मार्च, 2001

का.प्र. 843.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय रिजर्व बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय जयपुर के पचाट को प्रकाशित करती है, जो केन्द्रीय सरकार सरकार को 30-03-2001 को प्राप्त हुआ था।

[सं. एल-12011/11/98-आईआर (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 30th March, 2001

S.O. 843.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Jaipur as shown in the Annexure in the Industrial Dispute between the employers in relation to the Management of Reserve Bank of India and their workman, which was received by the Central Government on 30-3-2001.

[No. L-12011/11/98-IR(B-1)]

AJAY KUMAR, Desk Officer

#### ANNEXURE

#### CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT JAIPUR

Case No CGIT-J-35/99

Reference No. L-12011/11/98/IR (B-1)

Dated 13-11-1998

The General Secretary,  
Reserve Bank Employees Association,  
C/o R.B.I., Ram Bagh Circle,  
Jaipur-302019.

Applicant.

V/s.

The Chief General Manager,  
Reserve Bank of India,  
Ram Bagh Circle, Tonk Road,  
Jaipur-302019.

Non-applicant.

#### ATTENDANCE :

For the the applicant : Sh. Chandrapal Singh Advocate.

For the non-applicant : Shri P. S. Bindra, Advocate.

Date of Award : 8-02-2001

#### AWARD

The Central Government has referred the following industrial dispute under clause (d) of sub-section (1) of Section-10 of the Industrial Dispute Act, 1947 (hereinafter referred as the Act, 1947) for adjudication.

"Whether the action of the management of Reserve Bank of India, Jaipur is justified in not filling up the vacant post as per sanctioned strength of class III employees and not switching over of eligible typist to the clerical cadre even after agreement dated 30-3-91 arrived between the union and the management? If not, to what relief to the workmen are entitled to and from what date?"

The Reserve Bank Employee Association Jaipur (hereinafter referred as the Association) filed the statement of claim stating that Association is a registered Association which represents majority of class-III employees of the Reserve Bank of India, Jaipur (hereinafter referred as the Bank). The Bank is the highest financial institution, the Head Office of which is at Mumbai and one of its branch is situated at Jaipur. The Bank has different departments in which three types of categories of staff namely officers, class-III and class-IV employees are working. There is an independent procedure to assess in which department and in which category how much staff is needed according to which the inspection department of the Central office of the Bank inspects the different branches of the Bank and makes recommendation for additional sanction or reduction of the strength of the staff. The administrative department of the Bank accepts or rejects the recommendation. The chief Manager of the Bank is the competent Authority for filling the sanctioned posts of class-III employees. In case the sanctioned posts are not filled, the Bank fails to fulfill its obligations and the pressure of work is also put on the existing staff. In the year 1991 the Association has given a demand, letter to the manager of the Bank at Jaipur regarding the local demands on which memorandum of settlement dt. 30-3-91 Annexure-1 attached to the claim (hereinafter referred as the settlement) was entered into between both the parties after discussing through Shri Bhairosing Shekhawat, the then Chief Minister of Rajasthan and Shri K. S. Rastogi, Finance Commissioner. It has been alleged that the Bank has not filled up the vacant posts of class-III as per para-3 of the settlement and had also not given switch over from typist to clerical cadre as per para-4 of settlement. 10 posts of typists grade 62, 3 posts each of Stenographer and Translator, one post each of Telephone Operator and JEN are lying vacant. Similarly, 12 typists are eligible for switch over to the clerical cadre. The Bank is not implementing para-3 and para-4 of the settlement due to which the customer's service is being affected and the staff is also suffering from mental agony and

pecuniary loss. It was prayed that the Bank may be directed to implement para-3 and para-4 of the settlement.

In the reply to the claim as preliminary objection it was stated that the alleged dispute is not industrial dispute. The alleged settlement is not a settlement within the meaning of section 2(p) of the Act, 1947 and Rule 58(4) of the Industrial Disputes (Central) Rules, 1957 (hereinafter referred as the Rules, 1957). It was signed by the then manager of the Bank Jaipur under undue pressure of the Association and the Political Authority of the State. The alleged settlement was not sent to the Ministry of Labour by the parties to the alleged settlement as required under the provisions of the Act, 1947. It was stated that filling up of the posts is a management function and it is for the management to consider the need and requirement of the Bank depending upon the workload to fill up the posts. It was further stated that on 20th July, 1994 the settlement was arrived at between all India Reserve Bank Employees Association, a recognised and representative union of class-III employees regarding upgradation of technology and removal of wasteful practices. Further the Bank has already implemented Nayak Committee recommendations regarding reorganisation of Issue Department. It was stated that the Association has no right to raise any dispute in the matter. It was denied that non filling up of vacant posts has effected the customer's service. It was stated that chance of promotion has no relevance in the matter. It was stated that the existing class-III staff is sufficient to meet the workload of the office. It was denied that typists are suffering from mental agony or economic loss.

The Association filed rejoinder to the reply in which it was stated that the alleged settlement was voluntary. It was also stated that a part of the settlement has already been acted upon by the Bank.

On behalf of the Association affidavit of Shri Ramesh Yadav, Secretary of the Association was filed. The learned counsel for the Bank was given opportunity to cross examine him on his affidavit. On behalf of the Bank affidavit of Sh. N. K. Bohra, personnel Officer of the Bank was filed. The learned counsel for the applicant was given opportunity to cross examine him on his affidavit. Both the parties also filed copies of certain documents.

Heard arguments of the learned counsels for both the parties. On behalf of the Bank written arguments were also filed.

The following points arise for determination —

1. Whether the alleged settlement is a settlement as per the provisions of section-2(p) of the Act, 1947 read with rule 58 of the Rules-1957.
2. Whether the alleged settlement was arrived at under undue pressure of the association and Political Authority of the State of Rajasthan.
3. Whether the dispute is maintainable for the management decision about filling up of the particular posts.

The above points are decided in seriatim as follows:—

Point No 1.—The learned counsel for the Bank has contended that the alleged settlement is not a settlement within the meaning of Section 2(p) of the Act, 1947 read with rule-58 of the Rules-1947. He has contended that a settlement which is not according to the above provisions, will not be a valid settlement. He has relied upon the following authorities:—

- (1) 1975 (1) LLJ 163 Jhagrakhan Colliers (P) Ltd Vs. G. C. Agrawal.
- (2) 1972 (1) LLJ 99 Delhi Cloth and General Mills Ltd Vs. Management.
- (3) 1989 Lab.JC 289 Co-operative Store Ltd Vs. Ved Prakash.
- (4) 1994 Lab. IC 2394 Adil K. Patel Vs. Tata Iron & Steel Co. Ltd.

Section 2(p) of the Act, 1947 defines the term "settlement" as under:—

"Settlement" means a settlement arrived at in the course of conciliation proceeding and includes a written agreement between the employer and workmen arrived at otherwise than in the course of conciliation proceeding where such agreement has been signed by the parties thereto in such manner as may be prescribed and a copy thereof has been sent to an officer authorised in this behalf by the appropriate Government and the conciliation officer."

Rule 58(1) and 58(4) of the Rules, 1957 provides as under:—

- (1) "A settlement arrived at in the course of conciliation proceedings or otherwise, shall be in Form H."
- (4) "Where a settlement is arrived at between an employer and his workmen otherwise than in the course of conciliation proceeding before a Board or a Conciliation Officer, the parties to the settlement shall jointly send a copy thereof to the Central Government, the Chief Labour Commissioner (Central) and to the Assistant Labour Commissioner (Central) concerned."

The Apex Court in case 1975(1) LLJ 163 has held as under —

"An analysis of the above definition would show that it contemplates only two kinds of settlements: (i) A settlement arrived at in the course of conciliation proceedings under the Act and (ii) a written agreement between the employer and the workmen arrived at otherwise than in the course of conciliation proceedings. But a written agreement of the latter kind in order to fall within the definition must satisfy two more conditions, namely, (a) it must have been signed by the parties thereto in the prescribed manner, and (b) a copy thereof must have been sent to the authorities indicated in S 2(p) "

The Apex Court in case 1972 LLJ (1) 99, held that the settlement has to be in compliance with the

statutory provisions and the settlement which was not in compliance with rule 58(4) of Rules, 1957 was held to be illegal. In case reported in 1989 Lab. I.C. 289 the Delhi High Court has held as under:—

“So, the very definition of ‘settlement’ shows that it has to be by way of written agreement to be signed by both the parties and a copy thereof has to be sent to the officer concerned and also to the conciliation officer. S. 18(1) lays down that a settlement arrived at by agreement between the employer and workman otherwise than in the course of conciliation proceeding shall be binding on the parties, the settlement must be of the type prescribed in S. 2(p) of the Act. Rule 58 of the Rules lays down that a settlement arrived at... shall be in Form ‘H’ and the settlement shall be signed by the employer himself or by his authorised agent and also by the workman. Rule 58(4) lays down that where a settlement is arrived at between an employer and his workman otherwise than in the course of conciliation proceedings... the parties to the settlement shall jointly send a copy thereof to the Central Government, Chief Labour Commissioner (Central) New Delhi, and the Regional Labour Commissioner, New Delhi and to the Conciliation Officer (Central) concerned. The Form ‘H’ shows that the names of the parties have to be given and then short recital of the case and the terms of the settlement are to be given and then it has to be signed by both the parties and it has to be signed by two witnesses.”

Similarly the Bombay High Court in case reported in 1994 Lab. I.C. 2394 after referring the Section 2(p) and Section 18 of the Act, 1947 and Rule 62 of the Industrial Disputes (Bombay) Rules, 1957 observed as under:—

“It is clear from the above provisions that while saying that a settlement between the employer and the recognised union shall be binding on all the employees, the legislature also made in built safeguards against its misuse by providing that such agreement should be in proper form and signed by the parties and copies thereof signed by both the employer and the workmen should be forwarded to the concerned parties for their information. These requirements are not empty formalities. They are intended to protect the interests of the workmen. That purpose will be frustrated if these requirements are not strictly construed or duly complied with. In other words, the requirements contained in clause 2(p) and rule 62 are mandatory and non-compliance of these requirements will have a serious dent on the binding effect of any settlement arrived at between the parties.”

It is not in dispute that the alleged settlement was arrived at otherwise than in conciliation proceedings. The perusal of the alleged settlement shows that it was not signed in Form-H. The learned counsel of the Bank has contended that the names of the parties have

not been given on the top of the alleged settlement nor it bears the names of two witnesses. The names of the parties had been given on the top though names of the persons representing the Employer and Association have not been given. The alleged settlement undoubtedly does not bear the signatures of the two witnesses as required under Form-H. On behalf of the Bank Shri N. K. Bohra, Personnel Officer has stated that the copy of the alleged settlement dt. 30-3-91 was not sent by the Bank to the Assistant Labour Commissioner (C) Jaipur or Regional Labour Commissioner (C) Ajmer or Central Labour Commissioner (C) New Delhi. No question has been put to him about his above statement in cross examination. His statement therefore remains uncontroverted. Shri Ramesh Yadav, Secretary of the Association has stated his ignorance as to whether copy of the alleged settlement was sent or not. It is, therefore, proved that copy of the alleged settlement Annexure-I was not sent by the Association and Manager of the Bank jointly to the above authorities as required under sub-rule 4 of the Rule-58 of the Rules, 1957 and, therefore, the alleged settlement is not as per provisions of section 2(p) of the Act, 1947 read with the rule 58(1) and rule 58(4) of the Rules, 1957 and, therefore, is not binding on the Bank.

Point No. 2 :—The learned counsel for the Bank in support of his contention that the settlement signed by the then Manager of the Bank under undue pressure has referred to the following documents filed by the Association and the statement of Sh. N. K. Bohra, the witness on behalf of the Bank and the statement of Shri Ramesh Yadav, Secretary of the Association.

(A) The Association in its letter dated 22-4-91 has stated :—

“We warned the Bank management that clearing house alone would not be allowed function if our demands were not accepted, Bank took it in casual matter, we did not allow the clearing house to work from 25-3-1991 to 30-3-1991. Due to this financial position of state government deteriorate to unexpected extent. So the Chief Minister of the State intervened and an agreement was signed in his presence.”

(B) In para 2 of letter dated 12th December, 1994 written by the Association to the Asstt. Labour Commissioner (Central), Jaipur, it is stated as under :—

“The Chief Minister stressed upon the need of reaching an agreement and to call off the agitation as it is adversely affecting the Government transaction and also causing inconvenience to the public. In the above context, discussions were held in the presence of the Finance Commissioner and Secretary to the Government, Rajasthan and an agreement has been reached by the two sides.”

(C) In letter dated 4th December, 1995 written by the Association to the Assistant Labour Commissioner (Central), Jaipur it has been stated as under :—

“At the initiative of the State Chief Minister and in the presence of Finance Commis-

sioner and Secretary an agreement was signed between the management of Reserve Bank of India and the Association/Union on 30th March, 1991."

(D) In para 2 of letter dated 20th July, 1991 written by the Association to the Finance Commissioner and the Secretary, Government of Rajasthan, Jaipur it is stated as under :—

"It was a matter of pleasure that Hon'ble Chief Minister deemed it proper to spare some time from his busy schedule to solve the problem. He used his good office having understood the gravity of the situation and untold suffering and inconvenience to which Government itself, trade community, Government servant and public was subjected and called on the Manager, Shri Gurumurthy and representatives of both Association and Union to open dialogue a fresh discussion for agreement took place in his chamber and agreement was signed in the presence of your goodself."

In para 7 it has been further stated as under.—

"The Manager has exceeded his limit by disowning the agreement which was signed by himself on the instance of the Chief Minister, Rajasthan and in your presence."

(E) In the alleged settlement dated 30-3-91 it has been stated that "the Chief Minister stressed upon the need of reaching an agreement and to call off the agitation as it is adversely affecting the Government transactions and also causing inconvenience to the public."

"In the above context discussions were held in the presence of Finance Commissioner and Secretary to the Government, Rajasthan and an agreement has been reached by the two sides as under."

Shri N. K. Bohra the witness on behalf of the Bank has stated that in the month of March 1991, both the Association and the Union had launched a joint agitation pursuant to which the Clearing House at Reserve Bank of India, Jaipur was not functioning and the financial transactions of the State Government could not be cleared through..... On 28th March, 1991, Shri Rastogi, the then Finance Secretary, Government of Rajasthan gave a ring to and called the then Manager, Reserve Bank of India, Jaipur, Shri Gurumurthy to the then Chief Minister's Office, at the instance of the then Chief Minister, Shri Bhairon Singh Shekhawat. Accordingly, myself and Shri Gurumurthy went to the Chief Minister's office where it was insisted upon by the then Chief Minister that the Clearing House should start functioning immediately and for that the Management of Reserve Bank of India, Jaipur should settle the matter with Association/Union to call off the agitation/strike for smooth functioning of the Clearing House. On 29th March, 1991 the then Chief Minister had again discussions with the then Manager, Reserve Bank of India Jaipur impressing upon him to ensure functioning of Clearing House immediately and settle the matter with the Association/the Union

for calling off the agitation/strike, as that was period when it was end of the financial year and Government had to clear so many transactions before the end of the financial year i.e. upto 30th March, 1991. (31st March, 1991 being Sunday)..... Both the Association and the Union made best use of the opportunity that the Government of Rajasthan had to get its cheques cleared through the Clearing House for clearing the financial transactions and the Clearing House cannot function unless they call off the agitation. Accordingly, both the Association and the Union became adamant and started dictating their terms for calling off the agitation. On the one side the Association the Union were dictating their terms, for calling off the agitation and on the other side the political authorities including the then Manager to start functioning of the Clearing House. At the end, the then Chief Minister used his pressure on the then Manager to sign the agreement, the terms of which were dictated by the Association. Although the then Manager was not willing to sign the impugned agreement, he had to sign the agreement under the pressure of the then Chief Minister and accordingly he signed the agreement in the presence of the Chief Minister.

In cross-examination he has stated that there was a joint call for closing of the clearing house on behalf of class-III and class-IV employees. He has admitted that it is not on record that notice was sent to the Association that the settlement was signed under pressure. He has stated that Government cheques were stopped for clearance. Therefore, the Chief Minister called the Bank Manager through the Finance Secretary and told the Manager to get the Government cheques cleared. He has stated that on asking by the Chief Minister the Manager signed the agreement. He has further stated that Chief Minister told the Manager that he has to sign the agreement.

Shri Ramesh Yadav, Secretary of the Association has stated his ignorance as to whether the clearance house was closed from 25-3-91 to 30-3-91 while in the letter of the Association dated 22-4-91 it has been clearly stated that the Association did not allow the clearing house to work from 25-3-91 to 30-3-91. He has admitted that on 30-3-91 the Chief Minister called the Manager of the Bank and it may be that the Manager was called as the Government cheques were not being cleared. He has stated his ignorance that the settlement was signed at the instance of the Chief Minister. Thus the statement of Shri N. K. Bohra that the Manager of the Bank was pressurised by the Chief Minister of the State to sign the settlement so that the Government cheques could be cleared had not been shaken. The clearing house as per the documents of the Association was closed from 25-3-91 to 30-3-91 and the Government transactions were being adversely effected as the Government cheques were stopped for clearing. The Chief Minister pressurised the Manager of the Bank to sign the settlement which is evident from the documents and the statement of the witness referred above. The settlement was, therefore, not signed voluntarily by the Manager of the Bank which finding is also supported by the fact that the Manager of the Bank did not send the copy of the settlement to the authorities as required under rule-58(4) of the Rule, 1957.



Point No. 3.—The learned counsel for the Bank has contended that the filling up of the posts in the Bank is a managerial function and it is for the management to consider the requirement depending upon the workload to fill up the posts. Due to upgradation of technology and liberalisation of foreign exchange control and reorganisation of various departments, the number of required staff has been reduced in the Bank. The Bank has also entered into settlement dated 20-7-1994 with All India Reserve Bank Association to which the Association is the constituent, regarding upgradation of technology and the Bank has also implemented Nayak Committee recommendations regarding re-organisation of issue department. The learned counsel has contended that in view of these circumstances the dispute raised by the Association is not maintainable. In support of his contention the learned counsel has cited judgement of the Kerala High Court in W.A. No. 1166/1993, in which judgement of the Apex Court in case Shankaranan Das V/s. Union of India 1991 (3) SCC 47 has been referred. The Kerala High Court in the above case has held that Reserve Bank of India has a right to decide whether to fill up the vacancies or not. It was further held that the selected candidates do not have any legal right to secure appointment in any of the vacancies which were either originally notified or were subsequently anticipated, at the time of the preparation of the select list. Firstly the settlement on account of the decision on point No. 1 and 2 is not binding on the Bank and, therefore, Bank cannot be directed to implement para-3 and 4 of the settlement. Secondly the settlement being not binding, it is for the Bank to implement para-3 and 4 of the settlement or not. It has been contended on behalf of the Association that a part of the settlement has already been acted upon by the Bank. It will be open for the Bank to implement the remaining part of the settlement irrespective of the fact that the settlement is not binding. It is expected that the Bank will not feel prejudice for raising the dispute by the Association.

For the reasons mentioned above the action of the Bank in not implementing para-3 and 4 of the settlement which is not binding on the Bank cannot be said to be unjustified and the workman are not entitled to any relief.

The copies of the award may be sent to the Central Government under section-17 (1) of the Act, 1947 for publication.

Sd/-

PRESIDING OFFICER,

नई दिल्ली, 30 मार्च, 2001

का.आ. 844—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय स्टेट बैंक ऑफ बीकानेर एंड जयपुर के प्रबंधन के संबंध में निम्नलिखित विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय जयपुर के पंचाट को

प्रकाशित करती है, जो केन्द्रीय सरकार को 30-3-2001 को प्राप्त हुआ था।

[न. एल-12015/1/2000-आई आर (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 30th March, 2001

S.O. 844.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal/Labour Court, Jaipur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of Bikaner & Jaipur and their workman, which was received by the Central Government on 30-3-2001.

[No. I-12015/1/2000-IR (B-I)]

AJAY KUMAR, Desk Officer

अनुबंध

केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय  
जापुर

प्रकरण संख्या —सी.जी.आई.टी/7/2000

आदेश संख्या —ए:-12015/01/2000-आई.आर. 1 (बी-1)  
18-1-2000

रघुनन्दन ब्राह्मण एवं श्री चांदमल म. पो. भदोसर जिला, चित्तोड़गढ़  
द्वारा बी.एम. ब्राह्मण, चांदपोल, जयपुर

—प्रार्थी

बनाम

1. दी. मैनेजर (पर्सनल)

स्टेट बैंक ऑफ बीकानेर एंड जयपुर, प्रधान कार्यालय,  
तिलक मार्ग, जयपुर।

2. शाखा प्रबंधक,

स्टेट बैंक ऑफ बीकानेर एंड जयपुर, भदोसर,  
जिला—चित्तोड़गढ़।

—अप्रार्थीगण

उपस्थित :

प्रार्थी की ओर से

कोई नहीं

अप्रार्थीगण की ओर से

श्री राजेन्द्र वैश्य

पंचाट दिनांक 13-2-2001

पंचाट

केन्द्रीय सरकार के द्वारा औद्योगिक विवाद अधिनियम, 1947 (जिसे बाद में अधिनियम, 1947 कहा गया है) की धारा 10 की उपधारा (1) के खंड-घ के प्रावधानों अंतर्गत निम्न विवाद न्यायनिर्णय हेतु निर्देशित किया गया —

“Whether the action of the management of State Bank of Bikaner and Jaipur, Jaipur Branch Bhdesar District Chittorgarh with its headquarters at Tilak Marg, Jaipur in discontinuing the services of Shri Raghu-



nandan former Daily wage peon at the Bhadesar Branch District Chittorgarh w.c.f. 1-4-84 is just and legal. If not to what relief the disputant is entitled to?"

प्रार्थी की ओर से स्टेटमेंट ग्राफ क्लेम प्रस्तुत किया गया, जिसमें उल्लेख किया गया कि स्टेट बैंक ग्राफ बीकानेर एण्ड जयपुर (जिसे बाद में बैंक कहा गया है।) की शाखा भदेसर में पीओन का स्थाई पद रिक्त होने के कारण उसे दिनांक 1-4-84 से कार्य करने हेतु दैनिक मजदूरी के आधार पर नियोजित किया गया जहाँ उसने दिनांक 10-7-84 तक कार्य किया व जिस बाबत अप्रार्थी संख्या-2 ने प्रमाण पत्र भी दिया। उसे बिना कोई कारण बताए बैंक ने दिनांक 11-7-84 से कार्य पर न लेकर सेवा से पृथक कर दिया। इस पर उसने राजस्थान उच्च न्यायालय में याचिका प्रस्तुत की, जिसका निर्णय होने पर उसने भारत सरकार को प्रार्थना-पत्र प्रस्तुत किया, जिस पर यह विवाद न्यायनिर्णयन हेतु प्रेषित किया गया। यह उल्लेख किया गया कि उसे सेवा से पृथक किए जाने के समय वरीयता सूची तैयार नहीं की गई व उससे कनिष्ठ व्यक्ति, उसे सेवा से पृथक करने के समय बैंक में कार्यरत थे। यह भी उल्लेख किया गया कि उसे सेवा से पृथक करने के पश्चात् बैंक दैनिक मजदूरी के आधार पर नए श्रमिकों को कार्य पर रखा, परन्तु उसे नियोजन का अवसर नहीं दिया व इस प्रकार उसकी सेवा अधिनियम, 1947 की धारा 25-जी व एच का उल्लंघन कर समाप्त की गई।

अप्रार्थीगण की ओर से जवाब प्रस्तुत किया गया जिसमें आपत्ति की गई कि मैनेजर (पर्सनल) व शाखा प्रबंधक का बैंक से पृथक कोई कानूनी अस्तित्व नहीं है व स्टेट बैंक ग्राफ इंडिया (सबसीडीयरी बैंक्स) अधिनियम, 1959 (जिसे बाद में अधिनियम, 1959 कहा गया है।) की धारा 4 के अनुसार बैंक अपना कानूनी अस्तित्व रखती है व कोई भी वाद व विवाद सीधे बैंक के विरुद्ध प्रस्तुत किए जा सकते हैं, परन्तु किसी अधिकारी के विरुद्ध नहीं व इस आधार पर प्रार्थी का क्लेम खारिज किए जाने योग्य है। प्रार्थी के द्वारा विवाद सेवा समाप्ति के लगभग 16 वर्ष पश्चात् उठाया गया है व इस कारण कालबाधित है। यह भी आपत्ति की गई कि प्रार्थी "श्रमिक" की परिभाषा में नहीं आता। यह भी आपत्ति की गई कि प्रार्थी ने निश्चित समय हेतु विशिष्ट कार्य किया था व कार्य की समाप्ति के पश्चात् बिना एतराज के भुगतान प्राप्त कर लिया था, अतः वह इस कारण विवाद उठाने से विवक्षित है। यह भी उल्लेख किया गया कि प्रार्थी ने एक वर्ष में लगभग 240 दिन कार्य नहीं किया व इस कारण उसे नोटिस दिए जाने की आवश्यकता नहीं थी व निश्चित समय की समाप्ति पर उसकी सेवा स्वतः समाप्त हो गई। प्रार्थी को स्थाई कर्मचारी के अवकाश पर जाने के कारण निश्चित समय हेतु नियुक्त किया गया था। उसकी नियुक्ति निश्चित प्रक्रिया के अनुसार नहीं की गई। प्रार्थी के मामले में अधिनियम, 1947 की धारा 25-जी व एच के प्रावधान लागू नहीं होते बल्कि उसकी सेवा समाप्ति 1064 GI/2001—15.

अधिनियम, 1947 की धारा 2 (ओओ) (बीबी) के तहत अपवाद के अन्तर्गत आती है। यह भी उल्लेख किया गया कि बैंक के परिपत्र कार्मिक/42/87/23/4/87 के अनुसार उन सभी भूतपूर्व अस्थाई कर्मचारियों जिन्होंने बैंक में अस्थाई सेवाएँ दी थी, बैंक में स्थाई नियुक्ति हेतु एक अवसर भारत सरकार वित्त मंत्रालय के निर्देशानुसार दिया गया था व प्रस्तावित टेस्ट के बारे में सभी अस्थाई कर्मचारियों को महत्वपूर्ण हिन्दी व अंग्रेजी समाचारपत्रों के द्वारा सूचित किया गया था व इस प्रकार अधिनियम, 1947 की धारा 25-एच की पूर्णतः पालना की गई थी, जिसके पश्चात् नियुक्ति दी गई।

क्लेम के समर्थन में प्रार्थी की ओर से स्वयं का शपथ-पत्र प्रस्तुत किया गया, जिस पर प्रतिपरीक्षा करने का अवसर विपक्षी के अधिवक्ता को दिया गया। विपक्षी की ओर से भीमसेन तोमर, प्रबंधक बैंक का शपथ-पत्र प्रस्तुत किया गया, जिस पर प्रतिपरीक्षा करने का अवसर प्रार्थी के प्रतिनिधि को दिया गया। दोनों पक्षों की ओर से प्रलेखों की प्रतिलिपियाँ भी प्रस्तुत की गईं, जिनका उल्लेख यथा-स्थान किया जाएगा।

दिनांक 12-2-2001 को पत्रावली बहस हेतु नियत थी। प्रार्थी या प्रार्थी के प्रतिनिधि उपस्थित नहीं आए अतः अप्रार्थीगण के अधिवक्ता के तर्क सुने गए एवं पत्रावली का अवलोकन किया गया।

पत्रावली पर उपलब्ध साक्ष्य के आधार पर निम्नांकित विवाद बिन्दुओं पर विचार करना है :—

- (1) क्या देरी से विवाद प्रस्तुत किए जाने के कारण खारिज किए जाने योग्य है ?
- (2) क्या प्रार्थी की सेवा समाप्ति अधिनियम, 1947 की धारा 25-जी, 25-एच व औद्योगिक विवाद (केन्द्रीय) नियम 1957 के नियम 77 का उल्लंघन कर दी गई है ?

बिन्दु संख्या 1.—इस बारे में कोई विवाद नहीं है कि प्रार्थी की सेवा समाप्ति सन 1984 के विषय में सन 1998 में विवाद राजस्थान उच्च न्यायालय में याचिका प्रस्तुत कर उठाया। प्रार्थी ने देरी से विवाद उठाने के बारे में कोई कारण भी नहीं बताया। अप्रार्थीगण के विद्वान अधिवक्ता ने 1997 (1) एससी टी 762 स्टेट बैंक ग्राफ इन्दौर बनाम गोविन्द राव को उद्धृत करते हुए तर्क दिया है कि देरी से विवाद उठाने के आधार पर क्लेम खारिज किए जाने योग्य है। स्टेट बैंक ग्राफ इन्दौर बनाम गोविन्दराव के मामले में प्रार्थी की सेवा समाप्ति का आदेश सन 1977 में पारित किया गया था, जिसके विरुद्ध याचिका सन 1987 में प्रस्तुत की गई थी। माननीय उच्चतम न्यायालय में अभिनिर्धारित किया कि उच्च न्यायालय की सेवा समाप्ति के 10 वर्ष पश्चात् याचिका ग्रहण नहीं करनी चाहिए थी। माननीय उच्चतम न्यायालय ने 1999 (4) एस.एल.अगर. पुण्ट 109 अजायबसिंह बनाम सरहिन्द कापरेटिव मार्केटिंग के प्रकरण में यह अभिनिर्धारित किया है

कि कर्मकार के द्वारा विवाद उठाये जाने के बारे में अधिनियम, 1947 के अन्तर्गत कोई समय सीमा निर्धारित नहीं है व केवल देरी के बिन्दु के आधार पर निर्देश खारिज नहीं किया जा सकता। प्रस्तुत प्रकरण सेवा समाप्ति के बारे में याचिका से संबंधित नहीं है बल्कि औद्योगिक विवाद से संबंधित है व उच्चतम न्यायालय के मत की दृष्टिगत रखते हुए देरी से विवाद उठाने के कारण क्लेम खारिज नहीं किया जा सकता।

बिन्दु संख्या 2.—निर्देश आदेश के अनुसार यह निर्णीत करना है कि क्या प्रार्थी की सेवा समाप्ति दिनांक 1-4-84 उचित व विधिक है? प्रार्थी ने दिनांक 1-4-84 को अप्रार्थीगण के द्वारा सेवा समाप्ति करना बताया ही नहीं है बल्कि क्लेम में यह उल्लेख किया गया है कि उसने बैंक की भविसर शाखा में दिनांक 1-4-84 से 10-7-84 तक कार्य किया व दिनांक 11-7-84 से उसे सेवा से पृथक् कर दिया व ऐसा ही कथन उसने शपथ पर दिया है। इस प्रकार जब प्रार्थी की सेवा समाप्ति ही दिनांक 1-4-84 को नहीं हुई बल्कि प्रार्थी दिनांक 1-4-84 को बैंक की सेवा में था तो इस बिन्दु पर विचार करने की आवश्यकता ही नहीं रहती कि क्या प्रार्थी की सेवा समाप्ति दिनांक 1-4-84 उचित है अथवा अनुचित।

इस अधिकरण का क्षेत्राधिकार निर्देश आदेश में उल्लेख किए गए विवाद तक ही सीमित है, अतः इस बिन्दु पर विचार नहीं किया जा सकता कि क्या प्रार्थी की सेवा समाप्ति दिनांक 11-7-84 उचित है अथवा अनुचित। तर्क के लिए यदि मान भी लिया जाए कि प्रार्थी की सेवा दिनांक 11-7-84 को अप्रार्थीगण के द्वारा समाप्त की गई तो इस बिन्दु पर विचार करना आवश्यक है कि क्या प्रार्थी की सेवा समाप्ति छंटनी की परिभाषा के तहत आती है?

अधिनियम, 1947 की धारा 2(ओओ) में छंटनी को परिभाषा निम्न प्रकार दी गई है :—

2(oo) "retrenchment" means the termination by the employer of the service of a workman for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action, but does not include—

- (a) Voluntary retirement of the workman; or
- (b) retirement of the workman on reaching the age of superannuation if the contract of employment between the employer and the workman concerned contains a stipulation in that behalf; or
- (bb) termination of the service of the workman as a result of the non-renewal of the contract of employment between the employer and the workman concerned on its expiry or of such contract being terminated under a stipulation in that behalf contained therein; or
- (c) termination of the service of a workman on the ground of continued ill-health;

इस बारे में कोई विवाद नहीं है कि प्रार्थी ने दिनांक 1-4-84 से 10-7-84 के बीच 80 दिन बैंक की भविसर

शाखा में कार्य किया, जैसाकि बैंक के द्वारा दिये गये प्रमाण-पत्र से स्पष्ट है। अप्रार्थीगण की ओर से नियुक्ति पत्र की प्रतिलिपि प्रदर्श एम-3(1), एम-3(2), व एम-3(3) प्रस्तुत की गई। प्रदर्श एम-3(1) के द्वारा उसे 4 दिन के लिए दिनांक 1-4-84 से 4-4-84, प्रदर्श एम-3 (2) के द्वारा 7 दिन के लिए दिनांक 1-6-84 से 7-6-84 की अवधि के लिए व प्रदर्श एम-3(3) के द्वारा 10 दिन के लिए दिनांक 1-7-84 से 10-7-84 की अवधि के लिए नियुक्ति दी गई। उक्त आदेशों से स्पष्ट है कि प्रार्थी को समय-समय पर निर्धारित अवधि के लिए नियुक्ति दी गई।

1996 (1) ए.डी.एस.सी. (एल) 110 स्टेट ग्राफ राजस्थान बनाम आर. एल. गहलोत के मामले में उच्चतम न्यायालय ने यह अभिनिर्धारित किया है कि जहां नियुक्ति पत्र निश्चित अवधि के लिए हो व जब तक कि ऐसा निष्कर्ष नहीं निकाला जाए कि अधिनियम, 1947 की धारा 2(ओओ) (बीबी) के खण्ड का दुरुपयोग किया गया अथवा दुर्भावनापूर्वक उसका प्रयोग किया गया सेवा समाप्ति को अवध नहीं कहा जा सकता। प्रार्थी की अंतिम बार नियुक्ति दिनांक 1-4-84 से 10-7-84 तक निश्चित अवधि के लिए की गई थी, जिसकी समाप्ति पर प्रार्थी की सेवा स्वतः समाप्त हो गई। ऐसी दशा में प्रार्थी की सेवा समाप्ति अधिनियम, 1947 की धारा 2(ओओ) में दी गई छंटनी के अपवाद के खण्ड 2 (बीबी) के तहत आती है व छंटनी के तहत नहीं आती। जब प्रार्थी की सेवा समाप्ति छंटनी के तहत ही नहीं आती तो औद्योगिक विवाद (केन्द्रीय) नियम, 1957 (जिसे बाद में नियम, 1957 कहा गया है।) के नियम 77 व अधिनियम, 1947 की धारा 25 जी के आकृष्ट होने का प्रश्न उत्पन्न नहीं होता। अधिनियम, 1947 की धारा 25-एच का उल्लंघन किए जाने के बारे में निर्देश आदेश में कोई उल्लेख नहीं है, अतः इस बिन्दु पर विचार नहीं किया जा सकता। वैसे भी जब प्रार्थी की सेवा समाप्ति छंटनी के तहत नहीं आती तो अधिनियम, 1947 की धारा 25-एच के प्रावधान आकृष्ट नहीं होते। इसके अतिरिक्त प्रार्थी स्वयं ने अपने शपथ-पत्र में स्वीकार किया है कि बैंक की भविसर शाखा में उसके सिवाय अन्य कोई दैनिक बेतनभोगी कर्मकारी कार्य नहीं कर रहा था व अकेला स्वयं ही कार्य कर रहा था। ऐसी दशा में अधिनियम, 1947 की धारा 25-जी का उल्लंघन किए जाने का प्रश्न उत्पन्न नहीं होता। अतः इस प्रकार प्रार्थी की सेवा समाप्ति अधिनियम, 1947 की धारा 25-जी, एच व नियम, 1957 के नियम 77 का उल्लंघन कर किया जाना नहीं पाया जाता।

उक्त बिन्दुओं के निनिश्चय के आधार पर प्रार्थी कोई सहायता प्राप्त करने का अधिकारी नहीं है।

पंचाट की प्रतिलिपि केन्द्रीय सरकार को अधिनियम, 1947 की धारा 17 की उपधारा (1) के अन्तर्गत प्रकाशनार्थ प्रेषित की जाए।

ह० अपठनीय  
पीठासीन अधिकारी

नई दिल्ली, 29 मार्च, 2001

## AWARD

का. आ. 845 -- औद्योगिक विवाद अधिनियम, 1947 (1947 का 11) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय खाद्य निगम के प्रबन्धन के संबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम मंत्रालय चेन्नई के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-3-2001 को प्राप्त हुआ था।

[सं. एन-22012/153/98-आई आर (सी-II)]

एन. पी. केशवन, डेस्क अधिकारी

New Delhi, the 29th March, 2001

S.O. 845 — In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal/Labour Court, Chennai, as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Food Corporation of India and their workman, which was received by the Central Government on 28-3-2001.

[No. L-22012/153/98-IR(C-II)]

N. P. KESHAVAN, Desk Officer

## ANNEXURE

BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL-CUM-LABOUR  
COURT, CHENNAI

Wednesday, the 28th February, 2001

## PRESENT :

K. Karthikeyan, Presiding Officer.

Industrial Dispute No. : 86/2000

## BETWEEN

Sri D. Thomas ..Petitioner/I Party

## AND

The Senior Regional Manager,  
Food Corporation of India,  
Regional Office, Chennai. ..Respondent/II Party

## APPEARANCE :

For Workman.—Sri B. Saravanan, Advocate.

For Management—M/s. M. Imitias, Advocates.

## REFERENCE :

Order No. L-22012/153/98-IR(C-II) dated  
7-11-2000 Government of India, Ministry  
of Labour, New Delhi.

This dispute on coming up before me for final hearing on this day, the 28th February, 2001, the respective counsels appearing on either side were not present. Both the parties were not present. There is no representation on either side. Though it is posted for filing of Claim Statement of the I Party, as last chance, no Claim Statement is filed. After considering the order of reference, in the absence of any representation on either side, this Tribunal pass the following :-

This reference by the Central Government in exercise of the powers conferred by Clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 in respect of dispute between Sri D. Thomas, Workman and the Food Corporation of India, Chennai, Management, as Schedule appended to the order of reference.

The Schedule reads as follows :—

“Whether the action of the Management of Food Corporation of India, Chennai in not reinstating Sri D. Thomas with backwages is legal and justified? If not, to what relief the workman is entitled?”

2. On receipt of this reference, this industrial dispute has been taken on file of this Tribunal on 20-11-2000 as Industrial Dispute No. 86/2000. Notices were ordered to be sent to both the parties by Registered Post with acknowledgement due for the hearing on 5-12-2000. Both the parties were directed to appear in person and for the I Party Workman to file Claim Statement with documents in duplicate. For the first hearing on 5-12-2000, the registered notice sent to the I Party Workman at the given address was returned unrecd as ‘addressee left the address’. The counsel appearing for the II Party was present and filed his Vakalat. The Counsel for the II Party was directed to furnish the Tribunal the last known address of the I Party to send a fresh notice to him and the case was adjourned to 12-12-2000. On 12-12-2000, the counsel for the II Party filed a memo furnishing of last known address of the I Party/Claimant and the memo was recorded and a fresh notice to the I Party to the given address was ordered for the hearing on 27-12-2000. Accordingly, a fresh notice was sent to the I Party to the new address by Registered Post with acknowledgement due for the hearing on 27-12-2000. On that day, the I Party appeared in person and filed a memo seeking further time for his case to appear and to file Vakalat and Claim Statement and the case was adjourned to 8-1-2001. On 8-1-2001, one Mr. Saravanan appeared and filed and filed Vakalat for the I Party and requested further time for filing Claim Statement for the I Party. On that day, neither the II Party nor his counsel was present and the case was adjourned to 18-1-2001. On that day, both the parties and their respective counsels were not present and there is no representation. So again time has extended for filing Claim Statement of the Workman till 30-1-2001. On 30-1-2001 also neither of the parties and their respective counsels were present and there is no representation on either side. Again time has extended for filing Claim Statement of the I Party till 14-2-2001 finally. On 14-2-2001, both the parties remained absent and their respective counsels were also not present. There is no representation on either side. Then the case was adjourned to 28-2-2001, extending time till then, for filing Claim Statement of the I Party as last chance.

3. When the matter was taken up to-day i.e. on 28-2-2001, as usual both the parties remained absent and the counsel of either side is not present. There is no representation on either side. Though it is posted to-day for the I Party to file Claim State-

ment and documents as last chance, no Claim Statement is filed by the Workman to-day. The inaction of the Petitioner 1 Party Claimant from the inception of this case enable this Tribunal to conclude that the 1 Party has not come forward even to state his case by filing Claim Statement for the relief he claims in this industrial dispute as mentioned in the Schedule of reference, since no dispute as such exists between the parties at present. Under such circumstances, this reference is closed for want of representation by the aggrieved Claimant and consequently this reference is closed by dismissing the claim of the Workman in this Industrial Dispute.

(Dictated to the Stenographer and transcribed and typed by him and corrected and pronounced by me in the open court on this day the 28th February, 2001).

K KARTHIKEYAN, Presiding Officer

नई दिल्ली, 29 मार्च, 2001

का. आ. 846.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एम. सी. सी. लिमिटेड के प्रबन्धन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय हैदराबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-3-2001 को प्राप्त हुआ था।

[सं. एल-22012/335/97-आई आर (सी-II)]

एन. पी. केशवन, डेस्क अधिकारी

New Delhi, the 29th March, 2001

S.O. 846.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal/Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of S.C. Co. Ltd. and their workman, which was received by the Central Government on 28-3-2001.

[No. L-22012/335/97/IR(C-II)]

N. P. KESAVAN, Desk Officer

#### ANNEXURE

#### BEFORE THE INDUSTRIAL TRIBUNAL-I AT HYDERABAD

#### PRESENT :

Sri Syed Abdullah, B.Sc., B.L., Industrial Tribunal-I.

Dated, the 1st March, 2001

Industrial Dispute No. 12 of 1999

#### BETWEEN

Shri Arram Laxma Reddy,  
D. No. 7-5-258,  
G.M.'s Colony, Sector-I,  
Godavarikhani-505209.

.. Petitioner.

#### AND

The General Manager,  
RG-1 Area,  
S. C. Company Limited,  
Godavarikhani (A.P.),  
Godavarikhani-505209.

.. Respondent.

#### APPEARANCES :

Sri K. Srinivasa Rao, Advocate for the Petitioner.  
M/s. J. Parthasarathy and A. Chandra Sekhar,  
Advocates for the Respondent.

#### AWARD

The Government of India, Ministry of Labour, New Delhi by its Order No. L-22012/335/97/IR(CM-II), dated 14-12-1998 referred the following Industrial Dispute under Section 10(1)(d) and sub-section 2(A) of Industrial Disputes Act, 1947, to this Tribunal for adjudication :

"Whether the dismissal of Shri Arram Laxma Reddy, Ex. General Mazdoor of Open Cast Project-I, Ramagundam-III of M/s. S.C. Co. Ltd., with effect from 10-8-95 is legal and justified and whether he is entitled for reinstatement with full back wages w.e.f. 10th August, 1995? If not, to what relief he is entitled?

Both parties appeared and filed their respective pleadings.

2. The facts of the case as stated in the claims statement are as under: According to the workman, he joined the service of the Respondent-company on 3rd March, 1986 as Badli Filler and he was promoted as General-Mazdoor in Open Cast-I in the year, 1989. He has put in clean record of service till he was illegally removed from service on 10-8-1995. The respondent failed to consider the past service and the gravity of misconduct much less as to the allegations made against him in the charge sheet for the charge of absenteeism and an extreme capital punishment was imposed on him which was shockingly disproportionate.

3. An ex-parte enquiry was conducted on the ground that he absented for duty continuously from 6-9-1992 without any sanction of leave or prior permission and therefore as per Standing Order No. 25.31 it is a misconduct. In fact the petitioner was not served with any charge sheet and during the relevant period he was sick from 28-8-1992 to 31-10-1995 suffering from chronic active liver disease. After recovery he reported for duty by producing sick and fitness certificate but the same was rejected. Hence this petition. Hence prayed to set aside the order of removal dated 10-8-95 and to order reinstatement with back wages and all other attendant benefits.

4. The respondent filed counter and briefly stated the averments are as under: The petitioner was irregular in attending to the duties and he was continuously absent without obtaining any sanction of his leave. The petitioner never made any attempt to get his absence regularised for his earlier absence. In these circumstances, the petitioner was issued with charge sheet but he evaded to receive it. So it was sent by registered post to the address furnished by him which also he evaded to receive it. As the said

cover was returned undelivered, a paper publication was made for his appearance. As the petitioner was not responding to it, an enquiry was initiated and enquiry notice was also sent to the address of the petitioner. He failed to attend for the enquiry. Hence the Enquiry Officer held ex-parte enquiry and he found the petitioner was continuously absent without authorised or sanctioned leave. He found that the charges held against the petitioner are proved. Thereafter on the basis of it, a show cause notice was sent to the petitioner and so also got published in the newspaper. Even for this also, the petitioner did not respond. So there was no option except to terminate the service of the petitioner on the ground of continuous absence for duty unauthorisedly. His continuous absence from duty without sanction of leave is a misconduct under code of conduct and discipline. The allegation that he was not receiving any notices sent which were returned with a postal endorsement that "addressee is not staying in the village and hence returned", is not correct. The petitioner never informed the respondent about any change of address and he evaded to receive the notices. His past record of attendance to the duty is also bad. The extract of the musters shows that he put actual musters in attendance 49 days in 1989, 247 days in 1990, 258 days in 1991, 129 days in 1992 and he did not put in minimum number of days during the years 1993, 1994 and 1995 and he did not come to the workspot at all. All strenuous efforts, were made to serve the notice on the petitioner and then an ex-parte enquiry was proceeded with. The circumstances did not warrant the management for taking lenient view as the petitioner absented for 2-1/2 years. It is not correct to state that the petitioner availed sick for the relevant period i.e., 28-8-1992 to 30-10-95. The respondent company has a very expensive and well equipped medical service which the petitioner could have availed off at any time. But he did not chose to do so, much less he had intimated about his sickness. The allegations are made as an after thought. In fact he is put to strict proof of the same. Hence prayed to dismiss the claim of the petitioner as not maintainable.

5. The point for adjudication is whether the dismissal of Shri Arram Laxma Reddy, petitioner Ex. General Mazdoor of Open Cast Project-I, Ramagundam-III of Singareni Collieries Company Limited with effect from 10-8-95 is justified and whether he is entitled for reinstatement with full back wages from 10-8-95. If not, to what relief he is entitled to?

6. By an order dated 31-10-2000, this Tribunal, held that the domestic enquiry proceedings are valid without prejudice to the rights of the workman to raise the contention as to the merits of the evidence on record and as to the proportionality of the punishment by invoking Section 11-A of the I.D. Act. During the final arguments Exs. M6 to M9 were marked by consent besides the evidence let in during the domestic enquiry. MW1 was examined and through him Exs. M1 to M5 were marked.

7. Admittedly, it is a case of absenteeism for duty by the petitioner-workman. The workman was charge-sheeted and then the enquiry was proceed with. According to the employer, the petitioner's attendance for duty was irregular. For the earlier period of absence also, he failed to get his absence regularised.

8. In para 3 of the claims statement, the petitioner stated that he was sick from 28-8-1992 to 3-10-1995 and also from 6-10-95 to 12-4-96. He was under treatment for the chronic active liver disease and chronic duodenal ulcer and after recovery along with sick and fitness certificate, he reported for duty on 13-4-1996. But the same was rejected by the management. While he was sick, he was issued with charge sheet but he was not served with any charge sheet. Basing on the ex-parte enquiry findings, the petitioner was imposed with punishment of removal, which is illegal and contrary.

9. Whereas the contention of the respondent is that the charge sheet was sent to the petitioner, as he absented for duty unauthorisedly without applying for leave or permission. As per Company's Standing Order 25.31 unauthorised absence amounts to misconduct. The petitioner was required to submit his explanation as to why appropriate action should not be taken against him.

10. Ex. M2 is copy of the charge sheet sent to the petitioner by Registered Post with Ack. Due on 25th February, 1995 which was returned with postal endorsement that "the addressee is not residing in the village at present" covered by Ex. M3. Thereby a notice was published on 28-6-1995 in Eenadu Telugu Newspaper stating that a registered letter containing charge sheet was sent which was returned unserved and followed by it an enquiry was ordered and an Enquiry Officer was appointed fixing the date of enquiry as 2-7-1995 at 10:00 A.M., covered by Ex. M4. In Ex. M5 enquiry report the Enquiry Officer noted that the enquiry notice was published in Eenadu Telugu Daily on 28-6-95 to attend for the enquiry on 2-7-95 at 10:00 A.M. but he did not attend the enquiry. So he proceeded with ex-parte enquiry.

11. In the statement given by one Mr. M. Babu Rao acting P.O., he stated that the workman has not been attending the duty from 6-9-1992 onwards till the date of enquiry i.e. 2-7-95. He further stated that the charge sheet was sent to the workman's home address by registered post but the said letter was returned unserved with an endorsement "Party was not available in the village". So the enquiry notice was published on 28-6-95 in Eenadu Telugu Daily News Paper fixing the enquiry on 2-7-95 at 10 A.M. but the workman did not attend for enquiry. One Mr. B. Janardhan Peon, stated that on the instructions of the Enquiry Officer he called the name of the workman twice at the enquiry spot but the delinquent-workman has not attended for the enquiry. Mr. Babu Rao also said that absention for duty without sanction of leave or permission is a misconduct under Company's Standing Order. One Mr. M. Suresh Babu, Payment Clerk also stated that the delinquent has been absention from duty since 6-9-92. So the petitioner was not paid with any wages since then. The said payment clerk produced the Pay Sheet in proof of the petitioner's absence.

12. On the basis of the evidence available, the Enquiry Officer gave his findings holding that as per Company's Standing Order 25(31) the charge levelled against the petitioner is established beyond any doubt. Basing on the enquiry findings, the management gave Ex. M7 notice dated 16-7-95 to the workman informing him that an ex-parte enquiry was conducted and

during the course of the enquiry, the petitioner is guilty of the charge levelled against him and also advised the petitioner to collect the enquiry report on or before 30-7-95 from Dy. CPM, RG-III and represent within 7 days from the date of receipt of the enquiry report. The said notice was also got published in Andhra Jyothi Telugu Newspaper on 25-7-95 covered by Ex. M8. A final order Ex. M9 dt. 10-8-95 was passed imposing the punishment of dismissal on the petitioner. In view of the fact that the charge levelled against him is proved and also for the reason that from the past record it was found that there are no extenuating and aggravating circumstances which warrant less punishment than that of dismissal.

13. The departmental enquiry is different from that of a trial or enquiry to be conducted in criminal proceedings. In departmental enquiries the technicalities of Evidence Act need not be applied. An evidence which is not admissible as evidence in regular court may be taken as evidence in the departmental enquiries, which can be relied along with circumstances and preponderance of probabilities, so as to find out truth or otherwise of the allegations of charges levelled against a delinquent person. The respondent company is a Government of India undertaking which has adopted certified Company's Standing Orders for the administration and discipline of the employees working in its organisation. Rule 7 of it ensures the attendance and punctuality requiring to sign in the attendance register of the timings of reporting on duty and of leaving duty and so also to punch the cards. Rule 13 has prescribed the procedure for application for leave and leave application must bear the leave address and that the competent authority has to sanction leave to the workman. Rule 25 of the Standing Orders has laid down the acts of misconduct. Rule 25.31 is to the effect that absence from duty without sanctioned leave or sufficient cause or overstaying beyond sanctioned leave amounts to misconduct. Rule 27 of Standing Orders has prescribed for imposition of penalties. Rule 29 gave provision for appeal which should be submitted within forty-five days of receipt of order of punishment and the appellate authority should dispose of it within 45 days of receipt of the same. Rule 30 provides for review of cases of punishment.

14. Even in the claim statement it was admitted that the petitioner could not attend for duty right from 28-8-92 to 3-10-95. The absence as explained he was sick during the relevant period and the medical certificate produced by him was not taken into consideration by the management. As asserted by the workman, he has not produced any iota of evidence to show that he was actually sick from 28-8-92 to 3-10-95 and that he had undergone treatment under any Doctor as stated by him. Any assertion, when not proved it has no effect at all and it pales into insignificance. When the workman has specifically pleaded that he was sick during the relevant period, it is for him to prove it satisfactorily by producing evidence which the petitioner failed to do so. The respondent-company being a Government of India Undertaking, there is a presumption of the official acts which are done as per the rules. It is to be presumed that Ex. M2 charge sheet dated 25-2-1995 was sent after following the procedure. Ex. M3, registered notice which was sent to the workman had returned unserved with postal endorsement that "Addressee is not residing in the village". Under Illustration (E) to Section 114 of

Evidence Act, there is presumption that the postman had taken the registered letter to the addressee and it is for the addressee to rebut the presumption. It is not case of the workman herein that the address furnished on Ex. M2 is not a correct one. It is for him to establish that during the relevant period where he was residing but no cogent evidence is produced. After due publication of enquiry notice in Telugu News Paper a domestic enquiry was proceeded with. The publication of the notice in the newspaper is a notice to the public at large and publication of notice in the newspaper is a substitute service. It is permissible to publish notice so as to bring in notice of the person who has been evading service of notice. After following the procedure laid down, Ex. M4 publication was made so it is valid and proper. The enquiry officer had taken all precautions and following the procedure he has recorded the statements of the witnesses and basing on the material available on record, he found that the charge of absenteeism was proved beyond doubt which is attracting 25.31 of the Standing Orders. On the basis of enquiry findings, the respondent issued a show cause notice Ex. M7 dt. 16-7-95 informing the workman to submit his explanation on or before 30-7-95. It was sent by registered post and so also published a notice in Andhra Jyothi Telugu News Paper dated 25-7-95. As there was no response, a final order was passed covered by Ex. M9 dated 10-8-95 imposing the punishment of dismissal on workman.

15. During hearing of the arguments, the petitioner has produced office copy of the representation dated 13-4-96, office copy of the letter given by the union to the General Manager on 8-6-96, sickness and fitness certificate of the workman issued by Civil Asstt. Surgeon, M. G. N. Hospital, Warangal, on 3-10-1995 and also another certificate dated 12-4-96 issued by a private Doctor, Peddapalli. The office copies of the above said two letters are not enclosed with any acknowledgement of the management. The sickness and fitness certificate said to have been issued by Civil Asstt. Surgeon appears to be on 3-10-1995 which was issued on the same day certifying the sickness of the workman from duty with effect from 28-8-92 to 3-10-95 and that on examination he was found to be fit for attending duty on 4-10-1995. The other sickness certificate reads that the workman was suffering from 6-10-96 to 12-4-96 and 12-4-96 he was found to be fit to attend for duty on 13-4-96. The management has not given consent to mark those documents unless the workman is examined as witness. To substantiate about his sickness during the relevant period, he did not enter into witness box. So, his certificates are of no use at all as such the same were rejected. From the material available on record covered by Exs. M1 to M9 it is satisfactory to hold that the workman absented for duty unauthorisedly from 6-9-92 till the date of issuing charge sheet dated 25-2-95 and that the workman failed to substantiate good cause for his absence. In spite of giving him opportunity he failed to avail the same and rebut the charge. In view of clear cut rule 25.31 of certified Standing Orders an unauthorised absence of workman in Industrial Organisation amount to misconduct and the management has right to impose the punishment taking into consideration of the past record. The evidence on record is satisfactory to hold that the workman is guilty of the charge of misconduct for his unauthorised absence from 6-2-92 to 25-2-95

without any valid and proper reasons and that the management is justified in imposing the punishment of dismissal by invoking the rules.

16. While coming to the aspect of the punishment of dismissal from service, no doubt it is a painful event and it is to be considered to what extent Section 11-A of the I.D. Act to be invoked. It is to be exercised judiciously and any uncalled for sympathy for imposing the less punishment will effect the discipline in the industry vide 2000(1) LLJ (Mad.) page 1150. There must be good reason for taking any lenient view so as to interfere with punishment imposed by the management. Right from 6-9-92 onwards till raising of the dispute in 1998, the petitioner has not moved his little finger much less approach the management either by appeal or review to consider for a lenient punishment which reflects that the petitioner was actually not interested in the service. The circumstances clearly indicates that it is not a fit cause to take a lenient view and to interfere with the punishment of dismissal ordered by the management and more so when he had approached after lapse of 6 years. Therefore the punishment of dismissal imposed on the petitioner is justified.

17. In the result, an award is passed dismissing the claim of the petitioner by confirming the dismissal order dated 10-8-1995.

Dictated to the Steno-typist, transcribed by him, corrected by me and given under my hand and the seal of this Tribunal on this the 1st day of March, 2001.

SYED ABDULLAH, Industrial Tribunal-I

## APPENDIX OF EVIDENCE

During the domestic enquiry:

Witness Examined for  
Petitioner :

NIL

Witness Examined for  
Respondent :

MW1 M. Ramakrishna

Documents marked for the Petitioner :

NIL

Documents marked for the Respondent :

Ex. M1—Office Order dated 24-7-1994 appointing MW1 as Enquiry Officer.

Ex. M2—Charge Sheet dated 25-2-1995.

Ex. M3—Postal returned cover.

Ex. M4—Paper publication of Enquiry Notice in Ecnadu Telugu Newspaper dt. 28-6-95.

Ex. M5—Enquiry Report submitted by Enquiry Officer on 3-7-95.

During final arguments :

Ex. M6—Enquiry Proceedings.  
by consent

Ex. M7—Notice dt. 16-7-95 issued to the petitioner advising him to collect the enquiry report and to represent his case.

Ex. M8—Paper publication of the notice in Andhra Jyothi Telugu Newspaper dt. 25-7-95.

Ex. M9—Dismissal order dt. 10-8-95.

